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Public Utilities Fortnightly

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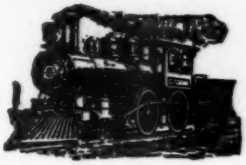


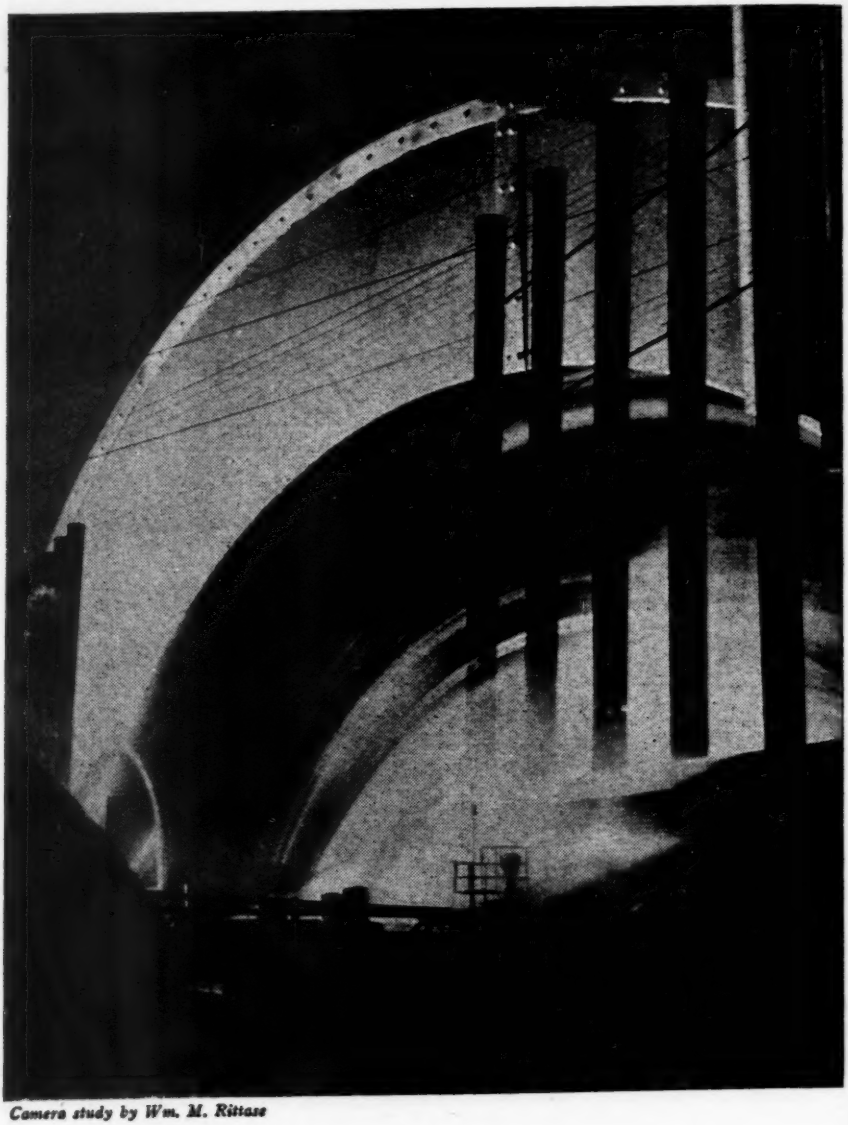
Public Utilities Almanack

NOVEMBER

23	T^h	Stock in gas compnaies dropped 20% on invention of electric lighting for home, 1877. Transportation entered upon new era with formal opening of Suez Canal, 1869.
24	F	A 3-day schedule for steamers established between Buffalo and Detroit, 1818. Tracks of the Mohawk & Hudson R. R. were provided with paths for horses, 1830.
25	S^a	First transatlantic radio broadcast was picked up in London, 1923. The first railroad merger in the U. S. was completed in Oregon, 1884.
26	S	First "long-distance" telephone conversation, Boston to Salem, 1876. American Tel. and Tel. Co. became central company of Bell System, 1900.
27	M	The 5-mile Hoosac tunnel (cost, $20,000,000) in Massachusetts completed, 1873. Royal Mail Steam Packet Co. purchased White Star, $34,000,000, 1926.
28	T^u	MAGELLAN, first "round-the-world" traveler, entered Pacific Ocean, 1520. First regular mail was inaugurated in U. S. with opening of N. Y. post office, 1783.
29	W	Completion of Erie and Champlain canals celebrated, 1825. Adams Express Company, operating between Boston and New York, formed, 1840.
30	T^h	JOHN CLAYTON announced he had obtained gas from coal, 1665. First A-C power plant in U. S. opened in Buffalo, 1886. ¶ *Thanksgiving Day.*

DECEMBER

1	F	First street gas lighting in U. S. was inaugurated in Baltimore, 1816. Public Utilities Commission of Maine was organized, 1914.
2	S^a	Watson-Parker Railroad Act granted 89,000 railroad men 7½% wage increase, 1926. Ground was broken in Omaha for building Union Pacific Railroad, 1863.
3	S	Richmond, Va., experimented with colossal gas lamp as a street illuminant, 1803. Six nations joined in demonstration of international telephone communication, 1927.
4	M	Pacific Telegraph Company chartered by Congress, 1861. Enclosed arc lamp, increasing carbons' life, invented, 1893.
5	T^u	First commercial air transport conference held in Washington, D. C., 1927. VON SOMMERING'S electric telegraph delivered to French Academy, 1809.
6	W	Commercial radio communication was established between U. S. and China, 1930. First presidential message to Congress was broadcast with aid of telephone wire, 1923



Camera study by Wm. M. Rittase

Rainbow in Industry

Public Utilities
FORTNIGHTLY

VOL. XII; No. 11 NOVEMBER 23, 1933

What the Utilities May Expect from the Coming Congress

What the new program provides that is of particular concern to public service corporations

BY HAROLD BRAYMAN

IN the vast and swiftly moving "New Deal" in which the Roosevelt administration is trying to reorient an economic universe, public utilities are only deuces—and just at the moment deuces aren't wild.

These former kings, now drifted to a lowly state, face a period of uncertainty, and to some of them, probably, of distress. In Congress their opponents hold an indisputable majority. In the executive bureaus and departments they find little sympathy. Through the National Recovery Administration they contemplate increased costs, but unlike other industry, little if any increase in rates. In the prospect of inflation, or a higher price level brought about by other means, there is for them only added expenses, with revenues slow to respond. In the government developments of power resources, the electric utilities face a new competition and a new standard. If they complain of their ills the most probable reply will be a reminder of their sins.

THE cheerful part of the picture, however, is that as the country gradually comes out of its economic tailspin, they can look forward to constantly increasing output. Already electric power production is running substantially ahead of a year ago. As recovery goes on it will approach 1931

volume, and then 1930 volume. If the general Roosevelt program works, this growth of volume will be hastened, and the utilities will receive that indirect but very substantial benefit.

In the special session of Congress last spring, the utilities escaped with no legislation which they regard as unfavorable except the Tennessee Valley Authority bill, and the impediments to their financing which are found in the new Securities Law.

That was their fortune in the midst of a national economic crisis. A hurried and hard-pressed Congress, a President organizing a program of greater magnitude than any heretofore put into effect in the United States in three short months, had no time to be bothering with utility legislation except as it fitted directly into the plans for the organization of recovery. The utilities had not closed their plants and ceased giving service. Hence they were not an outstanding part of the immediate crisis.

But when Congress returns in January the Roosevelt utility program will be put forward as a part of the permanent planned national economy. Numerous agencies have been busy this summer and fall studying the problems involved, both of theory and administration, and working out the details. Foremost among these is the Federal Power Commission which, with a $400,000 appropriation, is creating a national plan for the development of power resources and transforming into practical legislative application the principles of utility control laid down by President Roosevelt. This work is being carried on in coöperation with the Federal Trade Commission and the House Committee on Interstate Commerce, both of which are investigating utility practices. Consultations are also taking place with Senator Clarence C. Dill, chairman of the Committee on Interstate Commerce; Senator George W. Norris; Senator James Couzens, and Representative Sam Rayburn, chairman of the House Committee on Interstate and Foreign Commerce.

THE principles on which the Roosevelt utility program will be based were put in final form in September, 1932, as the Roosevelt campaign train wound around through the Rocky Mountains and down the West Coast to Portland, Oregon, a center of political warfare over utility regulation. Raymond Moley, Judge Robert Marks, and the late Senator Thomas J. Walsh of Montana aided in the preparation of the statement. Its delivery before an enthusiastic political throng in Portland made history in the extension of government control over the utility industry.

I am informed on high authority that there have been no changes in this program since that time, neither of addition nor of subtraction. Since it will be the basis of everything that is done by the next Congress its main principles ought to be recounted here.

"I seek," said the candidate for President, "to protect both the consumer and the investor. To that end I propose and advocate now . . . the following remedies on the part of the government for the regulation and control of public utilities engaged in the power business and companies and corporations relating thereto:

"1. Full publicity as to all capital

issues of stocks, bonds, and other securities; liabilities and indebtedness, capital investment; and frequent information as to gross and net earnings.

"2. Publicity on stock ownership of stocks and bonds and other securities, including the stock and other interest of all officers and directors.

"3. Publicity with respect to all inter-company contracts and services and interchange of power.

"4. Regulation and control of holding companies by Federal Power Commission and the same publicity with regard to such holding companies as provided for the operating companies.

"5. Coöperation of Federal Power Commission with public utilities commissions of the several states, obtaining information and data pertaining to the regulation and control of such public utilities.

"6. Regulation and control of the issue of stocks and bonds and other securities on the principle of prudent investment only.

"7. Abolishing by law the reproduction cost theory for rate making, and establishing in place of it the actual money-prudent investment principle as the basis for rate making.

"8. Legislation making it a crime to publish or circulate false or deceptive matter relating to public utilities."

THE most important feature of this program is the regulation and control of holding companies by the Federal Power Commission. The principle upon which that legislation will be drafted will be to preserve the legitimate uses of holding companies while preventing through these superstructures the nullification of Federal regulation of operating companies, the "milking" of operating companies by exorbitant service charges or unjustifiable contracts, the creation of unsound financial structures, and the building up, through financial juggling, of excessive valuations for rate-making purposes.

Holding companies have numerous legitimate uses. By uniting a large number of small operating companies into one big system they facilitate the obtaining of new capital at low rates. They make expert engineering services available to the small operating units at low cost. They provide the means of interconnection of power sources, so that if there is a failure of power in one section service need not be interrupted. There are numerous other minor uses. With none of these will the new regulatory legislation interfere.

The bill which will be submitted to Congress will probably give the Federal Power Commission extensive authority to regulate holding companies operating in interstate commerce. The interstate commerce clause will be the constitutional basis of the legislation, rather than a requirement for Federal incorporation, or some other approach. Roosevelt advisers feel that this will hit practically all holding companies, since Federal Judge Buck recently held in a decision in the Southern District of New York that

¶ "BESIDES *the power legislation which comprises the administration program the next session of Congress will probably see a considerable amount proposed by individuals who are strongly antiutility in their leanings.*"

when a holding company has service contracts with operating units in other states, it is operating in interstate commerce.

WHILE practically all the legislation involved in the Roosevelt power program is still in a nebulous state, and definite decisions as to details have not yet been made, it is reasonably certain that the legislation which will be proposed and passed at the next session of Congress for the regulation of holding companies will provide for drastic regulation of all their contracts with, and service charges upon, subsidiary companies.

It will undoubtedly also provide full regulation of the purchases and sales of subsidiary utility properties and of power, so as to keep prices always on the prudent investment basis. It will also require Federal approval of the issuance of all new securities, and will give supervision over utility accounting methods. In this respect it will go far beyond the present Securities Law which only requires publicity of the full and complete facts bearing upon the intrinsic value of any security issue. Under that law there is nothing to stop any security issue so long as its promoters tell the full truth about it, and can find a buyer.

The Roosevelt program will give the Federal Power Commission authority to regulate the *amount* and the *character* of security issues, in all probability. That will give much more drastic government control over utility financing than has existed anywhere in the past.

The publicity provisions in the Roosevelt program will be made to apply both to operating and holding companies, it is contemplated. The purpose of them is to provide the factual basis for effective regulation, and to enable public opinion to exert its full influence. The larger utility companies, whose stocks are listed on one of the big exchanges, now provide frequent information as to gross and net earnings.

The probabilities are that this will be supplemented by a requirement for periodic reports to the Federal Power Commission of the stock holdings of the principal officers and directors.

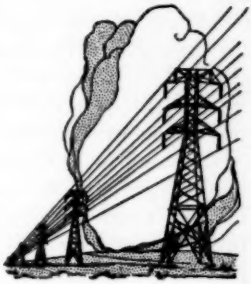
The fifth point in the program, mutual coöperation between the Federal and state utility authorities, requires no legislation and is already being put into effect by administrative action. The sixth feature will be handled by making the securities provisions being drawn for holding companies fully applicable to operating companies which are licensees of the Federal Power Commission.

THE abolition by law of the reproduction cost theory for rate making is important theoretically but practically is not so momentous because in so far as the Federal jurisdiction now extends the theory of legitimate original costs prevails. The question of only legitimate costs being carried over into the rate valuations was decided in the Clarion River power case, where the commission was sustained in scaling down excessive expenditures.

The question of the passage of this program at the next session of Congress is not now regarded as a serious one, unless other economic developments in the meantime capture the complete attention of the President

The Most Important Feature of the Program Will Be the Regulation of Holding Companies

"THE most important feature of the Roosevelt program is the regulation and control of holding companies by the Federal Power Commission. The principle upon which that legislation will be drafted will be to preserve the legitimate uses of holding companies while preventing through these superstructures the nullification of Federal regulation of operating companies, the 'milking' of operating companies by exorbitant service charges or unjustifiable contracts, the creation of unsound financial structures, and the building up, through financial juggling, of excessive valuations for rate-making purposes."



and Congress so that it is impossible to get the utility legislation to a final vote.

SUBSTANTIAL majorities exist in both houses in favor unreservedly of the Roosevelt program. The expectations now are that the program will be drafted so that it can be sent to Congress accompanied by a special message of the President quite early in the session, so as to allow plenty of time for hearings and debate. The chairmen of both Interstate Commerce committees to which it will be referred are generally in favor of it and will do everything to expedite it. Only a miracle could stop it from passage, once it is proposed. It forms one of the basic features of the Roosevelt policies, and will have all the executive pressure necessary to prevent it from getting stuck in legislative mud.

The regulatory portion of the administration program is supplemented by an important additional program for the development and utilization under public ownership and control of the government-owned power resources of the United States. This may also reach Congress at the next session, and under any circumstances there will be important administrative developments relating to it which may have a profound effect upon the utility industry.

THE President is thoroughly committed to the theory of public development of the publicly owned power resources of the country. He considers these projects a "yardstick" with which to measure the quality of private service, and also a "birchrod in the cupboard" to be brought out in case the privately owned utilities do not give proper service at reasonable rates. His program thus may be both nationally exemplary and locally punitive.

UNDER an executive order of the President issued on August 19th pursuant to a provision of the National Industrial Recovery Act, the President ordered the Federal Power Commission to make a survey of the power resources of the United States "as they relate to the conservation, development, control, and utilization of water power; of the relation of water power to other industries and to interstate and foreign commerce, and of the transmission of electrical energy in the United States and its distribution to consumers." On the basis of this survey the commission is directed to formulate a program of public works.

The objective of this investigation is a comprehensive plan for utilization of power resources for the next quarter century—to find out what power is available and plan for its development and distribution. The average per capita consumption of power is less in the United States than in Canada, England, Germany, and several other countries. The aim is to plan an orderly development so that eventually electric power at a reasonable cost will be distributed to every hamlet and every farmhouse, no matter how remote. The developments now in progress at Muscle Shoals and Boulder Dam (the Roosevelt administration has dropped the name Hoover Dam which Ray Lyman Wilbur tried to impose) form a part of this program. So does the Grand Coulee project on the Columbia river which the Public Works Administration is financing. Whether the full program will be laid before the next Congress depends upon how long Congress stays in session and how fast the Federal Power Commission works. The administration would like to see it completed in time to report to the next Congress.

But whether the survey is reported or not important administrative developments will occur during the next few months in relation to this development program. Already Secretary of the Interior Harold L. Ickes has made a tentative allotment of $63,000,000 for the construction of the Grand Coulee Dam on the Columbia river not far from Spokane, Washington.

This is the preliminary project on an ultimate development of the Columbia basin planned as extensively as that undertaken in the Tennessee valley. The engineering plans are ready and construction work is now starting on a small scale, which will be stepped up steadily.

In order to speed the work the Bureau of Reclamation is beginning the construction of engineers' houses, workmen's shacks, bridges, and so forth, until the state of Washington can create a Columbia River Authority similar to the New York Port Authority to carry on and complete the work. The laying of railroad tracks to the site is beginning. The money allotted is on the basis of a 30 per cent outright grant and a 70 per cent loan.

This project will provide the "yardstick" for the Northwest just as Boulder Dam will in the Southwest, Muscle Shoals in the Southeast, and the St. Lawrence project in the Northeast.

THE last of these promises to provoke one of the important legislative storms of the coming session of Congress, when the question of the

ratification of the St. Lawrence treaty with Canada will be brought before the Senate. Senator Norris of Nebraska and Bone of Washington, both vigorous antipower Senators, will fight for ratification, using the potential power development as their main argument. President Roosevelt favors ratification also.

If the power question were the only thing involved, or if a majority could ratify a treaty, ratification would be certain, but with two-thirds majority required and widespread opposition to the navigation features of the St. Lawrence development proposal, led by such an able Senator as Robert F. Wagner of New York, the result is very doubtful.

Senator Wagner is wholly for the power development but he does not want the present plan for navigation development coupled with it. Many of the Senators from the Mississippi states oppose it also because they want the Mississippi to be the outlet for the bulky products of the West. Numerous others oppose the idea of creating a water route which will divert much American export trade from American ports to a Canadian route.

BESIDES the power legislation which comprises the administration program the next session of Congress will probably see a considerable amount proposed by individuals who are strongly antiutility in their leanings. The bill sponsored by Senator Hiram Johnson prohibiting the Federal courts from issuing injunctions in rate cases in certain instances stands an excellent chance of passage.

This measure prohibits Federal district courts from enjoining the enforcement of orders of state utility commissions where jurisdiction is based solely on diversity of citizenship or repugnance to the Constitution, provided the order affects rates, does not interfere with interstate commerce, and has been made after reasonable notice and hearing and is still subject to final adjudication in state courts.

THE Johnson Bill has been before Congress for some time. Hearings have been held at length. It has been favorably reported from committee and is ready to be taken up by the Senate at the first available opportunity after that body reconvenes. Unless emergency legislation is heaped upon Congress by the President, the bill is quite likely to be taken up on the floor of the Senate early in the session. The administration does not include it in its program, but it does not oppose it either. Once a vote is reached, passage is assured. If time cannot be found to take up the bill, and it should begin to look as though it might be lost in the shuffle, Senator Johnson

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will probably get it before the Senate by moving to attach it to one of the administration utility bills as an amendment.

Senator Norris and some of the southern Senators (notably Russell of Georgia) are interested in getting a bill passed which would prohibit power companies operating in interstate commerce from "unfair competition" against locally owned municipal plants.

This proposal is aimed at preventing repetitions of instances where big power companies have reduced rates way below the cost of production in specific localities, in order to destroy competition by publicly owned plants.

Other legislation aimed at the utilities is apt to crop out at almost any time during the session, and there is no way of foreseeing now what form it might take. There are at least a dozen members of the Senate who are constantly seeking opportunities to attack privately owned utilities by unfavorable legislation.

They are apt to jump up in their seats at almost any moment and propose an amendment to almost any bill which would strike at some feature of utility practices to which they are opposed. There is no way of predicting the nature of these unless one could predict all the ideas that in the course of a long session might run through the minds of Senators Norris, Borah, Johnson, La Follette, Dill, Bone, Reynolds, Russell, and His Inimitable Uniqueness, the black-eyed kingfish.

BUT while Congress is milling on, the utilities are apt to find action equally important to them taken by administrative authorities of the government. Not only are they being investigated by the House Committee on Interstate and Foreign Commerce and by the Federal Trade Commission, but the Tennessee Valley Authority is making frequent rulings and announcements of policy which have profound effect upon utility companies.

This agency is being actively operated by David E. Lilienthal, a young man with a Jehovah complex and not too much experience. Its first important announcement after it began actively to operate slowly on the Muscle Shoals project was to start a nation-wide movement for utility rate reductions in a time of rising and unstable prices, and unstable capital structures, by stating that, the government-owned Muscle Shoals plant would sell electricity for distribution at rates from a maximum of three cents to a minimum of four mills a kilowatt hour.

This rate, which it was estimated would average seven mills a kilowatt hour for substantial users, is lower than the lowest private rates and comparable with the lowest Canadian rates.

The threat of moving into new territory and competing with private utilities was publicly made by the Tennessee Valley Authority in its general statement of policy. In that it said that the fact that action of the Authority might have an adverse effect upon a privately owned property should be a matter of serious consideration but not the deciding factor.

In announcing the area in which power from Muscle Shoals would first be available, the Authority also added that it might decide to go outside this area if privately owned utili-

ties did not coöperate in the working out of the program.

The Tennessee development, however, is apt to be very slow. Already the people of the Tennessee valley are complaining at the lack of activity after having believed that things would begin to move during the summer. But eventually, perhaps under different direction, the Tennessee Valley Authority is bound to be a potent influence through the whole utility field, and its administrative action is fraught with great potentialities.

THE Federal Power Commission, since some changes in its personnel have been made by President Roosevelt, notably the appointment of Basil Manly as vice chairman, is likely to become increasingly aggressive in the regulation of the licensees of the commission.

IT already has extensive powers, without waiting for the adoption by the next Congress of the remainder of the Roosevelt utility program. Although these powers have frequently been used cautiously in the past, they will be wielded vigorously in the future by a regulatory commission whose personnel is determined to regulate. It may not wait for Congress.

Facts Worth Noting

THE telephone business is the most widely advertised American industry.

* *

IT is estimated that NRA will cost the public service companies of Chicago between $50,000,000 and $75,000,000 extra per year.

* *

THERE were 32,000 intercity busses in operation in the U. S. in 1932. They carried a total of 422,000,000 passengers, and collected $250,000,000 in fares.

* *

LA FORTALEZA, the governor's palace at San Juan, Puerto Rico, erection of which started about 1529, has recently abandoned charcoal and candles for electricity.

* *

CANADA has 163 municipal power plants, employing 8,778 workers—according to the Canadian government report of 1931. Canada's 396 privately owned power plants, during the same period, employed 8,236 workers.

* *

THE telephone wire mileage in the United States is forty-three times the amount of miles of telephone wire in South America and a little more than twice as much as there is in all of Europe. It represents 50 per cent of the total telephone wire mileage of the world. The telegraph wire mileage in the United States represents 34 per cent of the world's total.

WANTED—A National Rate Board for the Power Industry

Agitations for utility rate reductions are contagious. Political opportunists have been quick to seize upon them and to capitalize them to their own political advantage; they are not always mindful of the effect of arbitrary rate reductions upon the finances and consequently upon the stability of the companies. In the following article the author points out one of the possible courses which the industry might pursue in meeting this menace.

By FRANCIS X. WELCH

It was, perhaps, only natural that the private power industry has bent backwards in an effort to appear straight, clean, and free from all taint of an organized monoply—a national trust, or a centralized clearing house for propaganda. It was the natural reaction to the revelations of the early days of the Federal Trade Commission investigation and the still more lurid newspaper accounts of them.

Private utility executives, many of whom had regarded themselves as industrious and respectable citizens, picked up their morning newspapers day after day, and saw themselves described as persons engaged in a nationally organized conspiracy to poison the wells of knowledge by bribed professors and subsidized textbooks. They saw cartoons depicting them as the employers of ratlike lobbyists corrupting our halls of legislation, our administrative executives, and even our state and Federal courts. They heard themselves referred to by the governor of at least one great commonwealth as "worse than gangsters." Editors vied with one another in denouncing them as harpies preying on the vitals of the poor.

Reaction! It was inevitable. All utilities, good, bad, and indifferent, began to feel uncomfortable in each other's company. Interindustrial feuds developed. The previous stream of propaganda froze into a stony silence that perhaps did more than anything else to convince the public of the guilt of the whole industry. Executives went into worried conferences with their lawyers. Their lawyers told them to shut up and sit tight. Lawyers, it seems, prefer to try cases in court rooms rather than in newspapers, but unfortunately, that elusive proper party—Public Opinion—can rarely be served and summoned into a court of law to give or hear testimony. In the majority of cases

it is wooed through the press.

Finally the National Electric Light Association was dissolved. But an overlooked, and for the power industry, an unfortunate, development resulted. It left the industry without any centralized board of strategy to cope with the real opposition that has since developed and which now threatens the fundamental welfare of the industry. The new Edison Electric Institute, as might be expected, resolved to be as pure as Caesar's wife. It would have no traffic with propaganda—not even a remote resemblance to propaganda. It resolved to be purely and simply an industrial association, with perhaps a little side line of organized technical research—but only this and nothing more. Canons of ethics were prescribed. Rates were a matter of local concern for each member. Any centralized discussion of rate policy might be construed as another "trust" brewing; hence each member company was told, in effect, to mind its own business and not to attempt to be its brother's keeper.

ALL this is as it should be, and it is not the presumptive purpose of this article to question the wisdom of demolishing the old association nor in organizing the new one strictly along the lines indicated. The point to be made here, however, is that the industry left itself completely at the mercy of a rapidly crystallizing attitude of public resentment, formed by political opportunists, until it broke forth into a rash of rate agitation that is now spread over the map like the measles from coast to coast. During the very time that utility opposition was organizing and gaining momentum, the industrial units chose to disorganize completely and to isolate themselves to fight their local battles single handed.

A careful reading and analysis of these utility rate agitations during the last eight months lead to some interesting generalities.

The rate complaints have much in common. Broadly viewed, they are like an attack of some disease upon a healthy industrial body. There are, first, the preliminary symptoms, then the preliminary stages when it can be "cured" without too much disturbance. Then there are the danger signals, finally a critical stage; political complications set in, a statewide investigation, and finally a formal reduction order by an aroused and antagonistic state commission which will bite so deeply into corporate dividends that it will be up to the particular company directors to decide whether it will "take it on the chin" and brave the anger of the shareholders in meeting assembled or embark on a long court siege.

By that time it doesn't matter much which course is elected. Public relations have been shattered and public opinion so irritated that the company can expect no credit for whatever concessions it might make.

THE most important evidence developed from the analysis of these rate insurrections is the fact that they are highly contagious. A rate agitation, with or without good cause, in an obscure community will often infect a neighboring community—a neighboring county. Ultimately a whole state will be up in arms. Com-

panies serving hundreds of miles away from the original trouble spot, and which are rendering adequate service at reasonable rates to a well-disposed and satisfied clientele, may, in a few weeks, be involved in the prairie-fire of rate agitation and be struck down by state commission orders or by legislative enactments.

It is lack of intelligent and organized rate policy supervision that has prevented companies from discovering and mending these original small leaks in the dike that could often have been repaired at comparatively trifling cost. At present, however, the psychology of the utility executive is such that he instinctively recoils from any suggestion of centralization or organization, especially on such ticklish ground as rate policy. A prominent utility executive at one of the last annual conventions of the National Electric Light Association, during a time when the utility men were experiencing their violent reaction from the widely spread "power trust" accusations, declared that "public relations is a strictly local problem."

That is typical of the attitude of most of the executives ever since, but while a broad generalization is very true in one way, it is subject to considerable modification in another manner. In plainer words, if one confines the application of the principle to a consideration of good will and cordial personal relationship between a utility and its customers, it is a gem of wisdom. Local management knows local operative conditions, likes, dislikes, traditions, sensibilities, and fetishes, much more intimately than some publicity board sitting in an office in New York, Washington, Chicago, or elsewhere. Blanket propaganda emanating from a foreign source not only frequently lacks local application, but may actually offend some local sensibility. On the other hand, when it comes to a matter of handling a difficult local rate insurrection, how much better equipped would the local management be if it could draw on the pooled experience, tact, and skill of some centralized board of strategy!

To emphasize this important distinction in another way, consider that the centralized board of propaganda sends broadcast uniform hit-or-miss messages regardless of the application to the individual case, while the centralized rate policy board would consider only one individual case at a time and bring all its resources to bear at once upon the settlement of the particular local controversy. In the former case the beams of influence broaden out from a central source like a shaft of light widening and weakening until they hit the entire country with little or no effect. In the latter situation the direction of the beam is reversed and the pooled experience of the entire industry would be narrowed down to a focus point bearing directly on the local problem.

¶ "WHEN *it comes to a matter of handling a difficult local rate insurrection, how much better equipped would the local management be if it could draw on the pooled experience, tact, and skill of some centralized board of strategy!*"

Generally speaking, rate disturbances can be divided into two classes: the first, which we might call the "original cases," develop from causes within the service area of the company. The second class, which we might call "sympathetic cases," develop from causes arising beyond the borders of the community, such as a rate disturbance in the next town, or next county, or in another part of the state—or, as recently happened, from a systematic rate irritation spread over the entire country by a department of the Federal government in Washington.

THE original rate cases generally arise from one or more of a number of routine causes which a comprehensive analysis of such cases would quickly disclose. It may be that rates are too high, that they are oppressive and intrinsically unreasonable. Again it may be entirely the work of some ambitious young lawyer, or a self-serving politician, or a professional rate agitator aided by local newspapers eager to support "popular movements." It may be due to poor public relations of the local management or some irritant or discrimination concealed in the rate schedules—sometimes of a surprisingly trivial character. These potential causes may lie dormant in any community ready to spring into life if a sympathetic impetus is given from an outside source.

The preliminary symptoms of an original case, as shown by a survey of a large number of histories of local rate disturbances, vary according to the primary cause but they occur frequently enough to justify certain general conclusions.

If the cause is the work of professional rate agitators or "reduction racketeers," the opening shot usually comes in the form of a petition alleging excessive and discriminatory utility rates filed with the state commission or city council. Pending disposition of this petition, there next comes speeches from the lawyer or politician connected with the movement. If a local newspaper is also involved, editorials begin to bristle, mass meetings are organized. If a municipal election is pending, the candidates begin to take up the issue of "lower utility rates." If an appraisal engineer is interested in the movement, there usually comes at this time a motion in the city council for a "survey of utility property values" or an "estimate of what a municipal plant would cost." If a company manufacturing and selling municipal plant equipment is behind the movement, this survey or estimate is produced quickly. By this time the citizenry is aroused and the state commission and city council, unless able to withstand popular pressure in an unusual degree, is compelled to direct a formal investigation and from that point on the fat is in the fire—a familiar story to all utility men.

WHEN a rate adjustment actually is warranted because of excessive charges or some discrimination in the rate schedule, the preliminary signs are somewhat different. The first symptom can usually be looked for in the "open forum" departments of the local newspapers through bitter complaints by the ubiquitous *"Pro Bono Publico"* or "Intelligent Citizen." If the irritation is not removed,

Symptoms and Stages of Rate Complaint Malady

"THE rate complaints have much in common. Broadly viewed, they are like an attack of some disease upon a healthy industrial body. There are, first, the preliminary symptoms, then the preliminary stages when it can be 'cured' without too much disturbance. Then there are the danger signals, finally a critical stage; political complication set in."

the dissatisfaction spreads. Finally some consumer, more aggressive than the rest, will call at the company's office and raise a row. If the company representative is unusualy tactful and intelligent, this first open flare-up will be stamped out at all costs. Particular pains will be taken to give the irritated party everything he asks for. If this is followed up by judicious investigation and concessions by the company, the attack is over and "cured." More frequently of late, however, this opening demand is voiced as a challenge. Result: circulated petitions, filed complaints, regulatory investigation, and all the rest of the familiar route. Newspapers and politicians usually jump aboard early in the course to make things unanimously uncomfortable.

THERE are, of course, no hard and fast rules to be followed for putting down such insurrections. If there were, there would be no need of a rate policy advisory board. Each case requires special attention. Sometimes a quick concession in the early stages of a recognized dispute will save thousands of dollars and immeasurable damage to public relations later on. Sometimes a mild and patient defense is the better course, especially in cases involving professional agitators who would never be satisfied by concessions and would only hail them as a "confession of guilt" and a "sop to the hard-pressed consumers." A mild defense carried on before a city council or a commission by skilled counsel has the effect of showing up the invariable ignorance of the agitators as to principles of regulatory law and practice and at the same time, by a display of sportsmanship and fair play, will win the respect, confidence, and good will of unbiased commissioners, councilmen, and the public, *provided,* of course, the dispute has not been al-

lowed to progress too far. In certain instances a show of firmness by the utility is justified, especially where the opposition is negligible.

JUST to illustrate more concretely the similarity of symptoms in original rate disputes, let us consider five actual examples or "case histories" of rate disputes that have actually occurred in the United States during the first eight months of 1933. Names of companies and communities in these case histories have, for obvious reasons, been omitted although some readers who have followed this subject may recognize one or more of the cases just from the "clinical material" presented.

CASE No. 1. Community of 40,000. Private utility rendering good service at comparatively low rates. Last reduction had been made voluntarily during the middle of 1932. Without prior warning, on February 1st, a petition, signed by ten citizens, was filed with the city council to investigate and reduce "exorbitant electric rates." On February 10th, at the council hearing, two junior members of the local bar appeared and urged the petition heatedly. The utility was not represented. One member of the council moved to refer the petition for action to the special committee. Other members urged another hearing for an opportunity to hear a representative from the utility. A row developed in the council. The petition was put over for two weeks. The utility meanwhile issued curt statements that the demands were "absurd and ridiculous." On February 24th the utility sent a representative to the council meeting. He was aloof and sarcastic. Another councilmanic row developed and the petition was dismissed by a narrow vote. Both young lawyers and two councilmen "walked out" of the meeting. On February 25th the citizens were interested. Newspapers carried the story of the council battle. Editorials mildly criticized the company. Young lawyers circulated petitions. On February 27th the company issued a statement to newspaper reporters. On February 28th the young lawyers replied with a bitter statement and an announcement of a public mass meeting. On March 3rd the mass meeting was well attended; there was a planned program; a resolution remanding a rate reduction was uproariously carried. On March 7th the newspapers were openly hostile to the utility. A new petition was filed and carried at first meeting.

The result was an ordinance reducing rates 20 per cent; hostile reverberations were heard in the state legislature likely to culminate in a statewide investigation of utilities next year together with possible punitive legislation. The local rate battle is now tied up in the courts. This case resulted in disturbing three other cities of the same state.

CASE No. 2: This case involved a community of 25,000. Two councilmen on April 5th suddenly introduced a petition for an impossible reduction of rates. Three meetings later with no apparent disturbance elsewhere except in the council, a modified resolution demanding a 30 per cent cut in rates was passed. Notice was served upon the company. Demands were refused but excellent reasons were given and a sympathetic offer of further negotiations was proffered. This forced the hand of the agitating councilmen. In the next meeting they demanded a "survey of what it would cost to build a municipal plant." A skilled representative of the company asked if the councilman has any appraisal firm in mind. After some discussion, a councilman mentioned the name of a firm widely active in such appraisals. The next day further concessions came from the company. The support of the local press was enlisted. At the next meeting, the council with the exception of the two original complainants accept the reduction. The press then gave the two

councilmen "credit" for securing the reduction. The matter was disposed of with resulting good will. From last reports the company's public relations seemed to be in excellent condition.

CASE No. 3: In this case a large city utility was subjected to a gradually increasing barage of complaints by citizens against high rates. The usual arguments were given: "Prices for all other commodities have come down"; "utility is earning an excessive return"; "utility's property values are inflated," and so on. Outside forces contributed to the trouble—reports from Washington, news of Muscle Shoals agitation, raging rate revolt in two neighboring states. The utility which had persistently ignored the existence of any trouble suddenly reversed its policy. The situation appeared most serious. Gladly coöperating with commission's investigators, the company "discovered" that its affairs were in bad shape for a formal rate proceeding. Valuation "write ups"; payments to an affiliated concern under a gross receipts percentage contract for "managerial services"; depreciation questions; a rate of return tentatively estimated at 9 per cent during the worst year of the depression; a rate schedule sorely in need of overhauling for the elimination of discriminations—all these factors appeared. Hurried and worried conferences were held with the commission. The commission suggested a drastic rate cut. More conferences. The company finally accepted with minor modifications. The news was heralded with rejoicing. The commission, newspapers, citizens—everybody congratulated the company's "voluntary reduction." This company now enjoys a solid and immune position in a territory surrounded by raging rate rebellion.

CASE No. 4: This involved a gas company serving a town of 50,000. The most unusual feature of this case is that neither the rates nor service of the company were originally attacked. The whole trouble arose from a technical "credit deposit" rule which had been a constant source of irritation to consumers since 1928. The deposit required, it was charged, was proportionately too big and too wide in its application. The utility refused to exempt many old and faithful customers (and many new ones with unimpeachable credit) which seemed to cause far more resentment than if the rates had been too high. Interest on the deposits was also preëmptorily refused. Finally a petition was filed with the state commission. The company fought tooth and nail all the way, raising every procedural and technical defense its lawyers could discover, in the course of which the commission gradually became antagonistic. The case finally developed into a general rate complaint, during which the utility took the case into Federal court where the matter now lies. Unfortunately, two other companies apparently innocent of any wrongdoing have become involved as the result of an embittered public.

CASE No. 5: This is a short case history involving a small community's power service, interesting chiefly as an example of an instance where firmness on the part of the utility was the best policy. Certain industrial power consumers petitioned for reductions to the local commission—a board hostile to utilities. In its rate reduction order, the commission's opinion betrayed an aston-

¶ "A NATIONAL *rate policy board with state or other local subdivisions organized for such analytical study of local rate cases is the obvious means of serving the interest of both the local company and the industry as a whole at the same time.*"

ishing innocence of regulatory law. The utility promptly appealed to court and was rewarded with an injunction. The court's opinion took the commission to task for its ignorance. Subsequently, the utility made a small voluntary reduction to *all* consumers. As a result of the procedure in this case the utility's public relations appear to be in very good condition.

THESE were just a selected few of a number of these case histories. The consideration of this clinical material has led this writer to the following conclusions:

1. Rate agitations are subject to classification as to symptoms, results, and remedies.
2. Complete analysis and knowledge of such classifications would be an invaluable asset in handling the particular rate case of the future.
3. Because of their highly contagious nature, the electric industry as a whole should be intensively interested in the rapid and effective settlement of all local rate disputes.
4. A national rate policy board with state or other local subdivisions organized for such analytical study of local rate cases is the obvious means of serving the interest of both the local company and the industry as a whole at the same time.

WHAT is suggested above is not a price-fixing body, nor intended in any way to violate the spirit or letter of the Sherman Act or other antitrust laws. The board would merely advise the local company (based upon its broader experience and specialized study) as to the proper steps exclusively applicable to the particular situation. Nor is it suggested as a device for the possible evasion of, or conflict with, the jurisdiction, powers, and duties of the state commissions or other regulatory bodies. On the contrary the existence of such a board should make the work of regulatory agencies much easier and smoother by inculcating in local companies a more coöperative spirit and a method for building up better local public relations.

The details of organization would have to be worked out. The national board would be independent of, and would not conflict in any way with, the Edison Electric Institute or smaller technical associations. It would be organized for only one purpose—the study, supervision, and cure of rate disputes all over the United States. Presumably the central board would keep filed and carefully classified, detailed information of the commencement, course, and disposition of every local rate case—a case history, in other words. In this manner, week by week the rate situation all over the United States could be charted for the information of the entire industry.

What a valuable aid such a weekly "fever chart" alone would be! Executives could see where new cases were springing into existence and why; where old cases have been cured and how. A particularly threatening area of "contagion" would never blossom out without adequate advance warning. In addition to this purely informative service, the board would gradually become expert in diagnosis and in suggesting remedies. If a local executive disregarded such advice and found a serious and ugly rate situation on his hands, he would only have himself to blame.

BUT will the companies coöperate in such a venture? At present there is little indication that they would do

so, notwithstanding discerning editorial warning to that effect from such astute quarters as *Electrical World*, which in its issue of August 26, 1933, stated in part as follows:

"We believe that the utilities need a council of operating property executives; for example, Arkwright, Owens, Pack, Ferguson, Wagner, Dow, and others who have both the ability and the experience and are in such intimate touch with the public and with conditions that they could arrive at agreements as to procedure to improve conditions whether through action on local properties or nationally. It is this type of executive and not the headquarters holding company official who has the information and experience needed to lead the utilities into the sunlight of public favor. There is no more necessary or more difficult task, and it must be done, for only the utmost courage and intelligence will ward off the present disastrous trend. If the utilities will do their part and take the lead the other members of the electrical family may be counted upon to do their utmost. Action is the only way out."

When the utility executive in Maine realizes that he has a personal stake in a rate dispute in California; when the industry as a whole realizes that only by patient supervision and cleaning up of these small local sources of irritation can lasting general esteem of the public be secured, the wisdom of an organized defense to the menace of organized and spreading rate revolt will be seriously considered.

Remarkable Remarks

"There never was in the world two opinions alike."
—MONTAIGNE

E. J. HOPPLE
Chairman, Ohio Public Utilities Commission.

"If our house needs cleaning, lets clean it."

HUGH S. JOHNSON
National Recovery Administrator.

"If a dictator came tomorrow what more could he do than has been done?"

JUSTICE DANIEL W. O'DONOGHUE
District of Columbia Supreme Court.

"The day has passed when absolute vested rights under contract or property are to be regarded as sacrosanct or above the law."

H. LESTER HOOKER
Virginia State Corporation Commission.

"Nothing is a stronger boost for a community seeking industries than the statement that its utility is strong, well managed, and adequately financed to take care of all of their needs."

EDWARD F. FLYNN
Assistant General Counsel, Great Northern Railway Company.

"If the government is right in trying to have more transportation facilities to make transportation cheaper, it must be wrong in killing pigs and burying cotton and wheat to make the prices higher."

How to Become a Public Personage

A Hint to "Young Executives"

By JAMES H. COLLINS

SAYS the ambitious young man, starting out in the world, "I will succeed—I will make a name for myself!" He thinks of his ambition as single—but it is really duplex.

Thousands of young men have succeeded in the electrical business the past generation, but those who have made a name for themselves are few. None have approached the international reputation made for himself by the Father of the industry, Edison. Westinghouse and Steinmetz came closest to general fame, as personalities. Yet the electrical business today needs personalities—like all business. It is being attacked by men who, first of all, understand the process of registering themselves as personalities in the public mind.

Becoming a personality is a definite process. There must be a foundation to work upon, of course, but given that foundation, the making of a name is a technical matter—even a mechanical process.

Let us investigate that process.

Let us begin with Edison himself, in the early days of the electric light, at Menlo Park. Old newspapers show that, from the beginning, Edison was doing three things:

1. Thinking about his work for the benefits it promised to hard-working people.
2. Finding interesting ways of making his work clear to people.
3. Being constantly accessible to interviewers.

INTERVIEWING Edison was always easy—and amusing. The reporter could go to him with any fool question under the sun, and the first step, in his later years, was to call up William H. Meadowcroft, with the "Old Man" for fifty years, and arrange an appointment. Meadowcroft usually warned the reporter that the Chief had been working hard the past few weeks, and might not be available—but if the interviewer cared to take a chance, which he usually did, he was told that

he might come to the laboratory the next afternoon.

At the "lab," the visitor was greeted by Meadowcroft's downcast countenance. The Chief had started some new work. Nobody knew where he was. But the interviewer might wait, and if Edison appeared, would the interviewer please be as brief as possible.

Within a half hour, the wizard himself walked in, sat down at his cluttered old desk, cupped his hand over his ear, as the interviewer asked whether he thought the moon was really made of Swiss cheese, smiled as the question meshed with information in that great head of his, and chatted for another half hour about the moon, with recollections from his long career.

For half a century, the inquiring reporter went to the "Old Man" on behalf of the public, as energetic boys went to Dad with fool questions. The questions were often silly, and they had been asked in every dialect under the sun. No matter, the boys wanted to know, and the Daddy of Electricity always had an answer—and the next day Meadowcroft would be just as certain that it wasn't a good day to bother Dad with questions.

Observe this process when a new President is elected. During the four months before he enters the White House, every newspaper and magazine in the country has stories of his boyhood, reviews of his career, interviews people who can throw light upon his personality. Public interest extends to his favorite dishes, his wife's cooking, his children's pets and pastimes.

Registering the personality of a President in the minds of a hundred million people is an enormous pick-and-shovel job of writing, supplemented nowadays by radio.

Before inauguration, the new executive's personality if then not well known is speculated upon with anxiety. Will he measure up to the great Presidents of the past? But in two years, people are gloomy about the possibility of his defeat for a second term, and confident that no other man as capable can be found.

A President must have personality. But registering this personality with the public is a process as mechanical as printing.

When a business leader takes a public office, the process is also seen in operation. The public wants to know who he is, where he was born, how he looks and talks; and newspaper correspondents tell the public. In office, he receives the reporters at regular intervals, chats with them about his work and policies, and takes the public into partnership. It is an experience that gives breadth to his work, and generally he learns to like it.

The demagogue is a self-made man by the same process!

At the outset of his career, newspaper men are not likely to be interested in what he thinks. But he will create interest.

I once knew a shrewd utility executive who, when agitation started against his company, anywhere in its wide territory, would send somebody to find out who was making the rumpus, and what that somebody wanted. Generally, a local demagogue was

found, attacking the company for personal publicity. This executive took steps to divert the agitation to some other corporation, just as good for a budding demagogue's career.

THE demagogue has a simple publicity story, and by sticking to it, may rise from local fame to national eminence. "I am the friend of the people," he says, "All others are crooked. I protect the people's interests. I alone am honest—and I admit it." Coupled with a picturesque personality, or eccentricity, this story is bound to "get over" if given sufficient time and repetition.

In contrast, the corporation executive works directly against this process. Let us consider the three things done by Edison:

1. Where Edison thought of his work in terms of benefit to the public, the corporation head is often immersed in technicalities and policies for the benefit of the company, first of all. In the end, his work is of public benefit, but he does not think of it in that way.

2. Edison had for fifty years been finding interesting ways of telling people about his work. He had, in fact, been a popular teacher. The corporation executive usually pleads that company affairs are too technical to be explained to the public, and often fears that, if efforts are made, the explanation will be misunderstood, or used against the company by enemies.

3. Edison was accessible, but the average business executive avoids the inquiring reporter. He is too busy—busier than was Edison! He avoids personalities. He counts silence a merit, and regards it as modesty.

NOWADAYS, corporations maintain publicity departments, to supply information, and they are necessary and efficient for the mass of routine news. But the inquiring reporter wants to see the "Old Man," feel his vibration, and convey to a few hundred thousand readers the impression that this business, along with many others, local and national, is being managed by a human being, trying like everybody else to do the public-spirited thing, *and having his troubles.*

Many corporations now have the "talking vice president," who makes public addresses, and is a company spokesman, a useful man, creating understanding and good will. But he is not the "Old Man." The public is human in wanting to know that large affairs are run by large men, approachable and friendly, to be relied upon for broad views and sound counsel.

The public is a kid, and there is nobody it trusts like Dad!

For a generation now, since the "trusts" appealed to popular imagination, we have had the "strong silent man" at the head of large affairs. We all know him, as newspaper and maga-

¶ "DEMAGOGUERY *is strictly entertainment. It uses a minimum of information, with a maximum of appeal to the emotions. The net result to the public is a strong thrill for the least amount of sustained attention. The Demagogue entertains exactly as the movies and action-novelist entertain.*"

zine readers, that "man of mystery," because we have sneaked into his office with the trembling reporter, writing a personality sketch, and studied his awful chin and brow in snapshots taken with a hidden camera, as he left the steamer or the investigating committee. We have all speculated about his power over millions and men, and watched his terrific combats with rival business giants, and wondered what he would do next—or whether he was sneaking up on us even now.

This strong silent man is, in my opinion, headed for the boneyard of the Triceratops and the Dinosaur, and for the same reason—that he is silent because he is dumb.

As long as he produced results, the man of mystery was all right. But in 1929, he crashed. The world experienced new events which led it to question all business. Private business became everybody's business, and a surprising sense of social responsibility was discovered in business itself.

THE socialization of business is under way. It will be either that, or some form of socialism. The captain of industry tomorrow will be social and articulate. The young man who means to rise in the world will study the process of making a name for himself, along with his engineering, and already the technological institutes are putting in courses in humanics, to meet the new demands. The value of an Edison and a Ford is so great, that we can no longer rely upon native ability for business leaders of their kind. We must duplicate it in quantity, and so we have begun putting young fellows in training.

Does this mean "Back to Tech" for the executive who has attained a position in which he might become a spokesman for his company?

Not at all. He can make a name that means something to the public if he understands that there is a new aptitude to be learned, and that time and practice are necessary to bring facility.

It is a new trick for the old dog. And yet, not exactly that, either, because many an executive of technical training has acquired a similar aptitude, in learning to manage the people who work for him. Add the knack of managing people to an engineering education, and you have a pretty fine kind of executive. Most executives in the utility industry have learned this knack, and those who haven't are working for them! Go back to the time when the young engineer came out of college, severely scientific, full of formulas. See him reach a point where it is necessary to get his results through people, to understand something of their motives and limitations. He has encountered a social activity, and if he begins learning, he rises in the management section of the business.

MAKING a name with the public carries this same thing a step further. It is a way of getting teamwork on a broader scale.

The process is mechanical to a surprising degree. Any "duffer" would give two years' time and practice to acquiring a good golf stance and swing. Learning to talk to the public requires similar drill, and enough time to make the aptitude second nature.

Training, Rather Than Native Ability, Will Produce the Leader of Tomorrow

"THE socialization of business is under way. . . . The young man who means to rise in the world will study the process of making a name for himself, along with his engineering, and already the technological institutes are putting in courses in humanics, to meet the new demands. The value of an Edison and a Ford is so great, that we can no longer rely upon native ability for business leaders of their kind."

First of all, self-consciousness must be overcome. That is done by mixing with people, saying a few words at the lunch club, trying out simple explanations of one's work in Pullman gatherings, getting the "feel" of the crowd.

THE utility executive has an extra handicap of self-consciousness, for he works with values not affected by people or emotion. This handicap is overcome by plunging in among people, and splashing around, until fear of the new element is lost.

Having learned to feel at home among people, to make a passable talk at the lunch club, answer the questions of the inquiring reporter, step up to a microphone—then comes the problem, "What shall I say?"

And here is another surprise:

It is not necessary to say much of anything! He will hesitate about explaining the company's complex organization or policies, fearing that his statements will be misunderstood. He will be afraid of saying the wrong thing, or making blunders.

The public really expects nothing of that kind, and will be bored if he enters deeply and frankly into technicalities.

There is no better criterion of the public's desire to know than the fool questions of the inquiring reporter. "Aren't rates for electricity too high? The company's last statement shows a big financial surplus—isn't it making too much money? Is the company charging the city too much for lighting? What do the officers of the company do to earn their large salaries? Is the company laying off employees? Is there a deadline against hiring anybody over forty-five? When will prosperity return?"

THAT the public is made up of morons is a common belief, and the well-known army draft tests, used during the war, and revealing an average mental age of about eleven years, are cited in proof. The public is not deficient in intelligence. It is deficient in attention to matters that do not enter into its own immediate bread-and-butter affairs. The utility business is but one of a thousand interests that occasionally occupy a few mo-

ments of its time, along with the price of gasoline and meat, the honesty of the city government, the prospects of President's reëlection, the current murder trial, and so on. Thus, when the public turns its attention to the utility business, it wants to know some simple and personal thing, such as whether electricity bills are reasonable. But it will not give any great amount of attention to the technicalities.

The public likes entertainment much more than it does information, and men who gain attention become adept in imparting entertainment as they answer the inquiring reporter. If Edison had undertaken to tell the public a small part of what he knew about electricity, it would have yawned, and turned to Will Rogers. But when Edison published his questionnaires, the public matched its wits against his quiz. He had furnished a new form of cross-word puzzle.

DEMAGOGUERY is strictly entertainment. It uses a minimum of information, with a maximum of appeal to the emotions. The net result to the public is a strong thrill for the least amount of sustained attention. The Demagogue entertains exactly as the movies and action-novelist entertain, by arbitrarily saying to the audience, "This is black, and signifies villainy—hate it; and this is white, and means purity, which is Me—root for me!" It is a well-known fact in authorship that the audience is ready to accept any statements made about characters, and to go wuff-wuffing along in anticipation of its emotional "kick."

THIS sounds cynical, but it is good mass psychology, and in the end the public has a healthy motive. What the president of the local utility company may say about business will occupy its attention maybe a minute and a half, and be forgotten in five minutes. But in that brief space of time the public feels that it has met Mr. Henry Ohm Kilowatts, and that he is a pleasant-spoken fellow, who understands his business, and is friendly to ordinary people, and honestly trying to serve the community.

"Henry Kilowatts is all right," says the man in the street. "Heard him talk on WZQ. What did he say? Oh, I don't exactly recall—something about—But I want to tell you he's an able man—he's all right!"

How well do you really know your own key men? What's going on in the comptroller's division—in the legal department? You know that Fox is a good comptroller, that Hemmingway is a good attorney. They're all right! Fox and Hemmingway—you leave details to them, that's what you picked them for. You see, it is your own method. Fox and Hemmingway must know their onions, and so must you, in setting up a partnership with the public. There must be trust as well as friendliness. There must be the ability that is trustworthy.

Allow plenty of time for this process, and do not be impatient.

You will be greatly impressed when you make your first radio talk, grant your first interview, but to the public you will be just one of a hundred events in the program or morning paper.

When I first began writing for a magazine with a million circulation, it seemed as though I stood on the housetops. But for a couple of years, even

my friends did not seem to know about my articles. Seldom did I receive a letter from a reader, and then always from somebody who wanted something—generally information. In a couple of years, however, people began to speak of my work, and I got friendly letters. In five years it was common for people to speak enthusiastically about one of my articles, just read—in a magazine for which I did not write at all!

ONCE establish yourself with the public, and it likes to associate you with other people's good things.

THIS time lag is especially noticeable on the radio. A single talk goes to the moon and fails to bounce back. A series of talks forms a connection with the public. Rome was not built in a day, one swallow does not make a summer, it takes repetition to break through human apathy, and while you are repeating, you are also learning your trade.

Allow two years to register as a person, five to become a habit, and ten years to attain such a reputation as a public personage that people will miss you when you are gone.

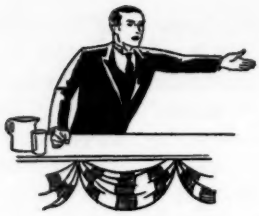
Even Ford and Edison had to begin!

To Appear in Coming Issue of This Magazine:

THE MOTOR BUS CONTROL MUDDLE
What the States and Federal Government Should Do about It
BY KIT F. CLARDY

UTILITY INVESTMENTS UNDER THE BIRCHROD AND YARDSTICK
BY JOSEPH STAGG LAWRENCE

NEED FOR QUICK-FIRE REGULATORY COMMISSIONS
BY JOHN BAUER



VARYING POLITICAL IDEAS AS TO WHO CONSTITUTE

The "Plain People"

The problem of safeguarding the interests of the plain people is greatly complicated by the fact that the interests of the plain people are not always the same so that it is hard for our political leaders to represent all of the plain people at any time.

By HENRY C. SPURR

A POLITICAL leader would not be a good political leader unless he stood fast and firm for the interests of what he designates as the "plain people."

It is a laudable purpose. Our political leaders are perfectly sincere in their desire to throw the strong protecting arm of the government around those who most need that protection. Every fair-minded American, who is anxious for the welfare of his neighbors, would not wish to do anything else.

Unfortunately, however, the term "plain people" is one of those happy generalizations which, politically speaking, mean different things at different times. A corporation would probably not be classified as a plain person at any time; but whether the labor employed by it or the stockholders would be included among the plain people of the country might depend somewhat on varying circumstances.

No matter how lofty the motive of our political leaders may be, the difficulty in always representing the interests of the plain people lies in the fact that those interests are not in harmony; or, at least, that the demands of one group of plain people conflict with the interests of another group of plain people. Our political leaders, therefore, while earnestly wishing to serve all of the plain people, can, as a matter of fact, battle for the interests of only a part of the plain people at any one time. In doing that they must necessarily oppose the interests of another part and often a considerable part of the plain people.

THE term "plain people" has a different meaning, politically speaking, for different occasions. A collection of plain people to be protected in one instance may be the very people subjected by our political leaders to exploitation in another. If the

members of a certain group of persons are always to be regarded as plain people, then from the political standpoint they are less plain on some occasions than on others.

In most of the remedial legislation asked for in favor of one group or another, the consumer group of plain people gets scant attention. It makes not the slightest difference how humble or ragged the consumer may be or how undoubted his right to be classified among the plain people, he just is not the kind of plain people our political leaders are thinking about.

SOME of our political leaders, for example, have been very much worried about the spread of the chain stores just as they were a generation or so ago about the advent of the department stores. Their anxiety, however, is over that part of the plain people made up of small shop or storekeepers. It is the latter group whose business is being interfered with. The consumers of the goods sold in the stores are not thought of. Our political leaders who attack the chain stores do not consider whether the chain stores may or may not be good for the poor consumers—buyers of merchandise—who greatly outnumber the poor storekeepers. Nevertheless, where would one expect to find more plain people than among the customers of our merchants?

In most cases, indeed, the poor consumer as pointed out by the spellbinder is not a plain person—at least politically speaking. As a general rule our political leaders are not consumer conscious. Neither are the consumers themselves consumer conscious for that matter. So, perhaps, our political leaders are not to blame for not speaking for people who make no effort to speak for themselves.

TAKE, for example, the matter of the merchandising of utility appliances by utility companies which the utility companies say is done in order to stimulate the use of utility service. It is reported that a candidate for lieutenant governor of one state is run on a platform of "no utility merchandising."

What part of the plain people did this candidate seek to represent? He probably spoke for any or all groups of persons who sell utility appliances aside from the utility companies themselves. These nonutility merchants would no doubt be referred to by the political leaders as "legitimate" merchants. This group probably includes plumbers, as it seems that plumbers sometimes engage in the sale of these appliances.

The main arguments against utility merchandising seem to be that the utilities are able to undersell or sell on better terms or are able better to service the appliances than are the "legitimate" dealers.

Without attempting to consider the justice or injustice of the merchandising practices of the utilities in competition with other sellers of appliances, it should be noted that in the debates on this subject the interests of that tremendously large part of the plain people who are the *buyers* of these appliances are not mentioned. Whether the door of opportunity for better service or cheaper prices or the right to pick or choose their own merchants should be left open to the buy-

ers is overlooked by the politicians.

Yet does anyone doubt that the buyers of merchandise or consumers of utility service are plain people? Are they not as plain as, or even plainer than, the sellers or shopkeepers?

Ask the shopkeepers what they think about that.

Yet this large block of plain people has no one to represent it; no one to ask what the buyer's wishes are as to this merchandising business.

WOULD any candidates for a political office who are running on an antiutility merchandising plank think of asking that part of the plain people who *use* these appliances such questions as these:

1. Would or would you not prefer to be free to pick your own merchant?

2. Would you prefer to pay a plumber more than a utility company for the same appliance?

3. Assuming that the appliance sold by a plumber will not be serviced, but that one sold by a utility company will be serviced, would you prefer to buy from the plumber or the utility company?

4. Assuming that you can buy the same appliance from a plumber or from a utility company, but that you can buy from the utility company on better terms, with better service from which would you prefer to buy?

It may be, of course, that freedom of choice ought not to be open to that large section of the plain people known as purchasers or consumers. The only point emphasized here is that this very large group of plain people gets no attention in the merchandising controversy.

Here we have an excellent illustration of the fact that in their rôle as consumers, the plain people do not usually amount to much in the philosophy of our political leaders.

WHEN it comes to utility service, however, the consumer begins to get a break; but it is only a part of the consumers at that, who get this break.

It is the consumer of commercial electric current, for example, and the labor which is employed in manufacturing and other business concerns as the result of the use of electric power who would receive most careful attention at other times who gets the cold shoulder from our political leaders when it comes to rates for utility service. Our political leaders are no longer interested in the plain people who are engaged in productive industry. It is more important to keep domestic rates low for the benefit of the domestic consumer's pocketbook than it is to encourage these commer-

¶ "OUR *political leaders have in fact often championed the cause of the nonpaying domestic customers against the interests of the paying domestic customers. Our state commissions have not done this; they have approached the question from the economic rather than from the political standpoint.*"

cial activities which give the domestic consumer a job for the benefit of his pocketbook.

We do not say whether our political leaders are right or wrong about this; we merely point to it as an illustration of the fact that the term "plain people" has different meanings, politically speaking, at different times.

So far as utility matters are concerned, the anxiety of our political leaders for the plain people is limited then only to that group of plain people known as the company consumers. More accurately stated, our political leaders are interested in the plain people only in so far as they appear in the rôle of domestic consumers, sometimes referred to as the small consumers of utility service.

THE smaller the utility consumer, the plainer he evidently is from the political standpoint.

A gas company, for example, offers a reduced rate schedule which will make a substantial cut in the company's revenue, but there is this fly in the ointment from the political viewpoint; the company proposes a service charge or a minimum charge or a higher charge for the first block of gas which the customer uses.

An examination of the records of this company shows, let us say, that a considerable number of its customers have been using either no gas or not enough to pay for the cost of carrying them on the company's books. They are either wholly or to some extent what is known in business parlance as "deadheads."

In a private business they could and would be cut off. But in a public utility business they must be kept on, because the law requires it.

A GREAT many persons order meters who either use no service or not enough to pay for the cost of serving them. Domestic users are, therefore, of two classes:

1. Paying customers;
2. Nonpaying and a large group of customers who do not fully pay their way.

Manifestly, if all of the customers of the company were of this class, the sooner the sheriff were called in the better. He would have to be called in anyway before long. It ought to be equally plain that the larger the percentage of such customers the worse off the company and its other customers would be.

In this particular case assume that in order to protect its paying customers and put the business on a sound basis the company reduces its charge for gas and offers to establish a service charge covering the cost of carrying customers which does not depend at all upon the amount of gas used.

This would probably meet with stiff political opposition on the ground that the nonpaying customers in this case were the plain people.

Our political leaders have in fact often championed the cause of the nonpaying domestic customers against the interests of the paying domestic customers. In this case the paying consumers would not be regarded as among the plain people from the political standpoint. So it is apparent that no matter how meritorious the intentions of our political leaders, it is very difficult to serve all of the plain people at the same time.

What Others Think

Echoes from the Battle of Birmingham

BIRMINGHAM, Ala., first of the large cities within the 450-mile radius from Muscle Shoals set by Congress as an operating area for the Tennessee Valley Authority to vote upon the question of whether or not it should own and operate its power distribution plant, voted "No" emphatically on October 9th. The verdict followed an intensive campaign which saw United States Senator Hugo Black of Alabama on the public ownership side and his own father-in-law, Dr. Sterling J. Foster, on the opposite side. The battle is now over but it is amusing to read the accounts of the matter by the opposing sides. The *Birmingham News* hailed the result as a victory of an intelligent citizenry over the appeals of demagogues. It stated editorially:

> "In the outcome, facts have triumphed over fancies, reason over prejudice, and sober judgment over hysteria. All the wild and demagogic agitation on the part of advocates of municipal ownership of utilities could not obscure the cold facts which argued against plunging the city headlong into so unnecessary, unwarranted, and ill-advised a venture.
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> "The campaign which the city has just gone through was inexcusable, in the first place. The people of Birmingham should not have been subjected to that ordeal. But when the issue was forced, they disposed of it in a conclusive fashion. It was a victory for common sense in public policy toward public utilities. At the same time, it was a victory for good government in this community. By their verdict the voters have said that they do not want the vitally essential utility services of Birmingham to be placed under political domination, and that they do not want the municipal government to engage in business which common experience in this country has shown is best left to private enterprise operating under regulation by law.
>
> "In so voting, the people of Birmingham have, in the belief of this newspaper, escaped a serious peril. They have avoided a radical course which not only would have led to danger, but which would have created a political nuisance that would have been a perennial plague to the lives of our citizens. Happily, the great majority of the voters of Birmingham realized all this and would not be led astray by hysterical appeals to prejudice."

THE *News-Sentinel* (Scripps-Howard) of Knoxville, Tenn., which is next in line among the larger cities close to Muscle Shoals to vote on a municipal power plant, saw in the verdict evidence only of fraud and deception. It stated editorially:

> "Although the city had elected a commission of advocates of municipal ownership, late developments in the referendum campaign itself indicated the outcome. And the principle development was the releasing of thousands of dollars of campaign funds by private utility backers for newspaper space, propaganda, and speakers.
>
> "With little or no regard for facts or veracity, the private ownership league of Birmingham used page after page of newspaper space to frighten the electorate with higher taxes, an entirely fictitious '$30,000,000' bond issue, a canard that the Tacoma, Wash., municipal plant, in some way caused the city to have a high tax rate and other propaganda.
>
> "Power companies throughout the nation were, of course, concerned to see the proposition defeated. They will be equally anxious to retain their grip on Knoxville and other Tennessee valley cities to hamper the establishment of a Federal power yardstick.
>
> "For them it is a desperate fight. If the TVA yardstick succeeds, then a new form of regulation will have appeared in the nation which will finally force them to wipe out some of their inflated values, their pyramided holding companies, and exorbitant rates despite the protection of subservient state utilities commissions. Everything possible will be done to prevent the TVA from obtaining a real test market. The very intensity of the fight will indicate the desperation of it."

TAKING the last statement first, a more critical analysis of the electoral vote itself indicates that the *News-*

Sentinel editorial may have been written with more feeling than deliberation. It so happened that Birmingham voted not only one municipal ownership issue but four: electricity, water, traction, and steam heating. Now if the "Power Trust" had waged a successful but relentless and corrupt campaign to seduce the Birmingham electorate we should expect that the vote against the power plant would have been overwhelming as compared to the other projects unless one were to argue that a Water Trust, a Traction Trust, and a Steam-heating Trust also took similar parts—an obviously incredible suggestion.

Yet we find that, of the 17,000 votes cast, the vote on power was 10,034 against and 7,004 for; the water vote was 10,082 against and 6,450 for; the traction vote was 12,401 against and 3,840 for; the heating vote was 12,148 against and 3,807 for. In other words the public ownership advocates made their best showing on the power issue (on which they had to contend, according to the *News-Sentinel*, with the corrupt opposition of the Power Trust), being defeated by a margin of only 3 to 2. On the other issues (on which they had, according to their version, no such corrupt, organized opposition) the vote against them ran 2 to 1, 10 to 3, and 3 to 1, respectively. These results would appear to indicate, assuming that the *News-Sentinel's* hypothesis were sound, that the Power Trust did much worse than a bad job at campaigning and that its cause would have been much better off if it had refrained from all interference.

On the other hand, sober analyses of the electoral results do not lend convincing support to the editorial conclusions of the *Birmingham News* that the "great majority of the voters of Birmingham" were moved by such an abstract ideal as the menace of complete socialization. Birmingham has a population of 259,678. Over 100,000 of its citizens are qualified voters. Yet only 17,000 votes were cast. Far less than a "majority," only about one out of seven qualified voters, took the trouble to go to the polls, a fact that at once negatives the suggestion that the citizenry was stirred to the core by the menace of social control or that the campaign was vigorously pressed on either side. Probably a more cold-blooded analysis of the entire election may be found in the editorial published in the *St. Louis Globe Democrat*. It follows in full:

> "Municipal ownership of utilities has received quite a setback in the decisive vote against it by the people of Birmingham, Ala. The result of the election there last Tuesday, exclusively on this issue, under a new law passed at the last session of the Alabama legislature providing for such special elections and authorizing municipalities to exceed their constitutional debt limitations in borrowing to finance municipal ownership, is of particular importance because it is the largest city within the area theoretically covered by the Federal government's power system at Muscle Shoals, and because it has definitely rejected the proposals made by the Tennessee Valley Authority, which is the government's administrative body in control of this system.
>
> "A very active campaign was conducted by the proponents of municipal ownership for the acquisition by the city of electrical light and power, water, heat, and street railway utilities. Private owners of public utilities were prohibited by law from taking any part, directly or indirectly, in the campaign, but there were no restrictions on the advocates of municipal ownership, however interested. Yet all four of these propositions were beaten by substantial majorities. The main fight was centered on the municipal light and power proposal, and it received the greatest affirmative vote, but it was defeated by a two-thirds majority.
>
> "The people of Birmingham were evidently convinced that the rates of service could not be materially reduced, if at all, under municipal ownership, even with the aid held out by the Tennessee Valley Authority in the matter of cheap power. And they were certain that their taxes would be greatly increased by the cost of acquiring the plants for municipal ownership. Moreover, they had had some experience with a city-owned electric plant, which was operated at a loss for six years and then sold and scrapped. The secretary of the Citizens' Protective Committee, which was organized to oppose municipal ownership, said after the election: 'The surge against public ownership is due to the fact that the people are realizing that public ownership is impractical and costly, and means a probable increase to the rank and file of taxpayers in their property and other assessments.'"

However, a number of more tangible reactions from the Birmingham ballot developed. On October 11th the *Wall Street Journal* announced that Secretary of Interior Ickes had suggested in a letter to the Tennessee Valley Authority that funds appropriated by Congress for the sole use of the Authority ought to be used in the construction of Shoals Dam No. 3, rather than funds appropriated by Congress for general emergency relief through the Public Works Administration. Secretary Ickes was reported to believe that inasmuch as the T.V.A. had $50,000,000 of its own to spend, public works money ought to be used for other projects throughout the country for which specific appropriations have not been made by Congress. A similar letter was sent to Senator Hugo L. Black of Alabama, who had been urging allotment of public works' funds for the construction of the dam.

ANOTHER development interpreted widely in some quarters as a reaction to the Birmingham ballot was the more conciliatory attitude of the Tennessee Valley Authority itself towards the privately owned power industry. The truth of the matter is that the Tennessee Valley Authority faces a very serious problem. It is committed to a construction and operation policy calculated to make hundreds of thousands of horsepower generating capacity available for which there is at present no discernible market. The encouragement of publicly owned plants in larger communities throughout the Muscle Shoals area was the first step in developing such a market. Birmingham, an important factor, if not the keystone of this plan, has refused to come into line. Municipal elections were scheduled in the near future on the subject in Ohio and Tennessee cities. From last reports, the outlook for municipal ownership victory appeared dark in Cincinnati and other Ohio cities and doubtful in Tennessee.

IF most or all of these municipal markets remain closed, the Authority faces the prospect of either becoming "power poor" or doing business with private distributors. In this light, recent utterances of Mr. David E. Lilienthal appear to be casting an anchor to the windward. The Authority's shrewd director of power affairs may be laying the foundation for a more graceful approach to negotiations with private distributors if the fortunes of politics make it necessary to do business with them. Speaking to the Rotary Club of Memphis on October 17th, Mr. Lilienthal stated:

> "What is going to be the effect of the Authority's power program on the investor in public utility securities? Here is an acute and difficult question, and one which I have no desire to evade.
>
> "The Authority is not engaged in a punitive expedition against the utilities. The Authority is an instrument of the people of the United States. It is charged with the duty of carrying out a national power policy, and the safeguarding of the public interest in the country's greatest resource, profoundly affecting the future development and prosperity of our country and all of its people. This policy has not been formulated over night. It is not a mere political accident. It represents more than a decade of careful consideration. It has been thoroughly debated in the Congress of the United States. The power program of the Authority is an integral part of a larger policy for the economic development of the United States.
>
> "The duty of the Authority is to carry out that policy. But in carrying it out, the Authority is determined to bring the least possible injury to actual investments in useful property.
>
> "This is not the first time that the execution of a great national purpose has adversely affected private interests. Many examples will come to your mind. There was a time many years ago, for example, when the educational system of the country was in private hands. The public policy which led to the establishment of public schools in competition with private schools must have seemed a serious blow to those people who had their money invested in private schools. As we now know, the fears of the private school owners were exaggerated. The privately owned school has shared in the steady growth of our nation's educational structure, and today continues to occupy a distinctive place. But will any fair-minded person argue that the policy of public education is wrong on the ground, and on the ground alone, that such a policy threatened loss to the owners of private schools?

The problem implicit in the Tennessee Valley Authority Act is essentially the same. Once the representatives of the people and their president have determined that the national welfare demands the setting up of an example of public power operation in this area, is it the part of loyal Americans to seek to destroy and to thwart that policy merely because they fear that it may adversely affect their private holdings?

"The times call for the ablest leadership in the electrical industry. And as I well know, there are men in that industry who have the capacity for genuine statesmanship. But if instead of such level-headed leadership we have hysteria, a refusal to look at the facts, or a resort to underground methods or misrepresentations, then the electrical industry, its investors, and the general public will inevitably suffer."

IT will be recalled that the Muscle Shoals law enacted by Congress at its last session expressly provided that municipal plants were to get preferred service by the Tennessee Valley Authority's power wholesalers. This assumed, of course, that there would be plenty of municipal plant customers eager to buy. One can only hazard a surmise, therefore, as to any hidden meaning in another passage of Director Lilienthal's address to the Memphis Rotarians:

"The Authority is ready to sit down with the leaders in the electric industry and discuss their respective problems as business men.

"I appeal to the electrical industry on behalf of the investors to whom it is responsible to show a measure of business leadership which will make the country forget the disgrace which was cast on the industry during the past decade.

"If the Authority succeeds in its plans to develop new uses for electricity, and by low rates and wide distribution of low cost appliances can increase existing uses, private utilities and the electrical manufacturers can both share in the benefits.

"If in acquiring a market we can use existing facilities of private utilities, of course we will pay a fair price for them. By contracts with private utilities for interchange of power, economies and service betterment can be effected in which the utilities will derive benefits.

"If there is a genuine desire to work with this project and not to obstruct or destroy it, ways and means can and will be found for the electrical industry and government to work without friction in expanding the use of electrical energy for the benefit of all our people."

ON October 12th the Chattanooga *Times* reported that the Tennessee Valley Authority would "steer clear of city fights." Prior to that date all members of the Authority appeared to be working industriously to effect municipal ownership victories wherever possible. Director Lilienthal, in charge of power affairs, was especially active in hopping about the South making speeches and generally encouraging the formation of a "great network of publicly owned plants" around the government power dams. Writing to Mayor Ed Bass, of Chattanooga, Mr. Lilienthal stated:

"In response to your inquiry, I hope you will understand that the question of whether the city of Chattanooga should or should not acquire its own distribution system is a matter of local policy to be determined wholly by the citizens of your city without any suggestion or influence whatever from the Tennessee Valley Authority. I hope that you will not regard my attempt to answer your question as in anywise a suggestion or recommendation favoring or disapproving this policy of the ownership of power facilities within your city."

On October 14th there appeared in the *Electrical World* an article by Chairman Morgan, containing a surprising amount of skepticism concerning the inevitably or desirability of public ownership. Chairman Morgan said in part:

"There is no assurance from on high that public ownership will bring honest and economical administration. Before national prohibition, when I questioned its advisability, I was told that "public opinion will grow up behind the law." The reverse is what actually occurred. I meet enthusiastic public ownership advocates who thrill with the conviction that the achievement of public ownership will perforce reduce public incompetence and corruption. They should take a lesson from prohibition.

"I believe in public ownership of utilities and of public resources so far as it can be made to justify itself. In many men there is a quality of dignity and social mindedness which craves for expression in the public service. It is very inspiring to meet men who have given their lives to raise the level of public service, who have worked for small salaries, and who get their reward in knowing that they

have worked, not for personal profit, but for the public good. We need institutions which give such men a chance.

"The success of public ownership will extend only so far as it can be divorced from political patronage. In the past, with public functions constituting only a small part of our social and economic life, political patronage was a vicious disease, but was not necessarily fatal. We might tolerate the Post Office Department as a patronage machine, since it was almost the only strictly business enterprise in which the Federal government was engaged. If we greatly increase public ownership, then the doctrine that 'to the victor belongs the spoils' will spell the doom of social and economic decency and health.

"In this discussion of patronage I am expressing my own individual and personal views. I have consulted no one and have not presented these views to any public official for approval. I personally assume all responsibility for them."

ON October 18th, Jonathan Mitchell, writing in the ultra-liberal weekly, *The New Republic*, sharply criticized Chairman Morgan for alleged theoretical ideals of economic isolation in the Tennessee valley. The article stated:

"The Authority, as a body, has so far announced no planning policy of any kind. However, Dr. Morgan, in a number of speeches, notably in a radio broadcast a short time ago in Washington, has indicated clearly enough what he thinks its program ought to be. It should, in his opinion, be based exclusively upon the valley's present inhabitants. In the war and post-war years, several hundred thousand of the valley's people left their parental homesteads to work in mill towns. With the depression, they were flung out of their jobs, and have now drifted back to practise subsistence farming on the Virginia and Tennessee hillsides. Parenthetically, it should be pointed out that the Tennessee Valley Authority, partly because of delays in setting in motion the Cove Creek Dam project, has so far failed to furnish the emergency employment which was expected of it.

"Dr. Morgan's social program for the Tennessee Valley Authority is built immediately around this group. Partly as a measure of flood control, he wishes to withdraw all submarginal and marginal land in the valley from agricultural use. If need be, this land will be bought up directly by the Authority. Through the various Federal farm-credit agencies, the hillside farmers thus dispossessed are to be aided in purchasing small holdings in the fertile river bottoms. These holdings will average about five acres apiece. They are to be sufficient to enable families to grow abundant food for themselves—whatever economic vicissitudes overtake the nation—but not large enough to permit them to produce for the commercial market, and to add to the country's already huge agricultural surplus. . . .

"It is submitted that this is so much romantic mush. Of recent years, large-scale industry, and particularly the textile industry, has been moving into the Tennessee valley at a steadily quickening rate. The Tennessee Valley Authority plans shortly to put into operation the Muscle Shoals power plant, and push to completion the Cove Creek power project. Does Dr. Morgan suppose that this won't tend to attract still other industries? In that case, what will be the effect of Dr. Morgan's program of training the valley inhabitants to be virtually self-subsisting? In practice, it will simply enable the valley inhabitants to work for pin-money wages, or more accurately gasoline and movie-ticket wages, or as nearly as the Blue Eagle permits, and to scab on the rest of America."

FROM these murmurings in the ranks of the municipal ownership advocates, plus the Birmingham ballot and the recent utterances of its members, it appears that the T.V.A. is having a difficult time in masticating the exceedingly large piece which Congress bit off for it last May.

—F. X. W.

THE VERDICT AGAINST MUNICIPAL OWNERSHIP. Editorial. *Birmingham News.* October 10, 1933.

BIRMINGHAM VOTES NO. Editorial. *Knoxville News-Sentinel.* October 10, 1933.

A BLOW TO MUNICIPAL OWNERSHIP. Editorial. *St. Louis Globe-Democrat.* October 13, 1933.

ADDRESS by David E. Lilienthal before the Rotary Club. Memphis, Tenn. October 17, 1933.

ADDRESS by Arthur E. Morgan, Chairman, Tennessee Valley Authority, before the Public Ownership Conference, Chicago, Ill. September 30, 1933.

UTOPIA—TENNESSEE VALLEY STYLE. By Jonathan Mitchell. October 18, 1933.

More Prescriptions for Utility Recovery

ONE of the hopeful signs for the utilities is that their present difficulty has attracted the attention of a number of volunteer fixers. This, at least, means that the general attitude towards the private industry has become slightly sympathetic, notwithstanding the numerous and burdensome restrictions and conditions which may have prescribed for its recovery.

It is at least a tacit admission by them that the private utility industry is in trouble and that it might be a good thing for the country at large if some steps were taken to help it out. So rabid was the prevailing antiutility attitude six months ago it seemed for a time that no one could be found who had a good word to say for privately owned utilities. In vain did the utility executives cry out against hostile governmental action. Tell the man on the street that the value of utility holdings had dropped nearly 20 per cent while other securities had increased in value and he would yawn and say, "What of it?" Point out to him that the utilities were being subjected to discriminatory taxation and he would reply, "Fine; they deserve it!" Declare to him that the utilities were headed for destruction and socialization and the chances were he would say, "Who cares?"

Now, however, this unreasonably punitive spirit appears to have burned itself out. Utility critics are just as critical but their criticisms have assumed a constructive tone. There seems to be more of a disposition to give some quarter. Only the out and out government ownership advocates continue to demand the utter annihilation of private utility service which is, of course, quite logical and consistent with their major position.

Mr. Judson King, director of the National Popular Government League, in a recent issue of *The Nation* tells us what the private industries must do to be saved. Mr. King adopts the classic style used by Plato to drive home his points—the dialogue. The author sets the stage at a typical city council meeting during which the shortcomings of private utilities are discussed. During this discussion we learn what is the matter with public utility power rates. They are too high. They should be reduced. They are too high because the private industry has failed to investigate and standardize the details of distribution cost. The "leak" in this unexplored region may be as much as 100 per cent. It must cut down these expense charges or justify them in detail.

Mr. King implies, however, that if the electric industry would itself investigate these leaks and make voluntary reductions, all would be well and there would be a place in the economic set-up of the New Deal even for privately owned utilities. If they refuse, however, one of the mouthpieces in Mr. King's little play warns us, "our only recourse is a municipal plant."

MR. Jerome Count, Labor attorney of New York, also writing in *The Nation*, believes that the private industry must eliminate its selfish regard for corporate stockholders at the expense of its employees. He stated in part:

> "The industry is now loaded with staggering stock and bond issues, aggregating some $12,000,000,000, on which dividends and interest must be paid to capital. In 1932 dividends and bond interest of the operating companies again remained intact but labor suffered another decline of 30,000 wage-earners, with an annual wage loss of $45,000,000. Construction expenditures were again cut, this time by some $375,000,000, although one of the industry's leading executives speaking to his 'fellow-employees' said: 'We stand today on the threshold of a sturdier and more solid development than our industry has known for nearly a score of years.' He spoke, of course, from the standpoint of capital since his own company discharged 2,500 employees that year.
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> "At the beginning of 1933, while employees were being discharged at the rate of 3,000 per month and the wages of 3,000 more were being cut, *Electrical World* again reported a year of general capital prosperity and said: 'No serious threats

to utility progress and prosperity exist.' Meanwhile construction projects have been delayed to a critical point which impairs efficiency and provides utilities with pretexts for maintaining exorbitant rates. The cessation of improvements will deprive consumers of rate increases which were often promised out of unification savings in exchange for the approval of consolidations and mergers granted by many public service commissions. The public will pay for the stoppage of improvements while utility employees starve."

In short, Mr. Count would have private industry reorganized and would write off this excess capitalization, but increase the operating expense account by increasing payrolls. This will be hard on stockholders, but the industry must do this if it is to forestall further adverse developments.

Director David E. Lilienthal, of the Tennessee Valley Authority, believes that private ownership will thrive again when it learns to "coöperate" with government owned projects. Writing in the *United States News,* he stated:

"Granted a leadership equal to its responsibilities, the holders of public utility securities which represent actual prudent investment are in a favorable situation, compared with investors in almost any other industry. There are few companies in other industries which have maintained and in some cases even increased their earnings during the depression, as the electric utilities have been able to do. The demand for power is steadily increasing. It has been estimated that in ten years the electrochemical industries will be consuming thirty billion kilowatt hours a year, which is about one third of the total power generated in the United States today. There will be room for both private and public operations, and both can succeed if fair dealing and moderation prevail over councils of warfare and malice.

"Here is an opportunity for industry and for government to display qualities of statesmanship. The Authority must carry out the national policy entrusted to it. It must acquire a market for its power. It must work toward a wider use of electricity in the home, the farm, and the factory. All of these objectives can be reached without the predicted calamities to the industry and its *bona fide* investors.

"If the Authority succeeds in its plans to develop new uses for electricity, and by low rates and wide distribution of low-cost appliances can increase existing uses, private utilities and the electric manufacturers can both share in the benefits. If in acquiring a market we can use existing facilities of private utilities, of course we will pay a fair price for them. By contracts with private utilities for interchange of power, economics and service betterment can be effected in which the utilities will derive benefits. I could cite other concrete instances to the same point.

"If there is a genuine desire to work with this project and not to obstruct or destroy it, ways and means can and will be found for the electrical industry and government to work without friction in expanding the use of electric energy for the benefit of all of our people."

Henry G. Wells, a member of the Massachusetts Department of Public Utilities, reported as chairman of a special committee to the recent convention of the American Bar Association on the regulation of holding companies and of the relation between such companies and their affiliates. Mr. Wells characterized the underlying principles of holding companies as sound, maintaining that there are many advantages derived from their existence, such as mass production and distribution, which have resulted in lower rates being charged the public than would be possible with separate plants serving each community.

Intensive research, made possible by large organizations, has greatly added to the efficiency of service, and the availability of experts has aided local companies in problems of engineering, accounting, law, and financing. Interconnection of plants has provided protection against interruption of service and has facilitated the handling of load conditions.

As to the disadvantages in holding companies which have become manifest in the last few years, Mr. Wells made two general classifications. The first contains the abuses arising out of unnecessary or unreasonable payments by the operating companies for the various services referred to, and the second arises out of financial transactions between the parent and subsidiary operating utilities, such as the borrowing of substantial sums from operating companies or the requiring of excessive

dividend payments by operating companies, thus impairing the financial stability and quality of service of such companies.

MR. Wells expresses doubt as to the wisdom of further Federal regulation, and believed that the state authorities would seem to have ample authority to protect the operating companies and their customers, if they choose to exercise it. He made an exception to this general statement as to the inability of state regulatory authorities to obtain access to such evidence in the possession of holding company systems, but believed that there is a growing tendency among the various systems to coöperate with the regulatory bodies in the matter of furnishing evidence.

The *Electrical World* has somewhat different ideas about utility recovery. It believes that the utilities should strike back at their critics. Here is a typical passage:

> "Informed Washington comment asserts that however radical the administration may appear in some aspects and activities there is no one subject upon which such concerted and inevitably radical action may be looked for as upon the electric light and power industry. The President himself is directing the unhurried and all-but-psychologically-impregnable attack. The campaign, like others in progress, is that of indirection. It is capitalizing upon a hostile public sentiment to inaugurate policies that undoubtedly point to public ownership of light and power utilities. It is time to fight and not to acquiesce in any statement that the public wants lower rates and wants public ownership and therefore it is useless to fight. The public is fair when informed; it changes its opinions. The public will respond now as it has in the past to a leadership that conforms to American principles of business conduct—private initiative and private enterprise."

The *Electrical World* further believes that the public as well as all branches of industry will suffer and not the utilities alone, should the prevailing trend against private operation of utility service continue. It calls to arms the leaders and executives and begs other public-spirited citizens to make common cause against what it regards as the menace of nationalization:

> "What shall be done? We believe this problem is so large and so fundamental to national welfare that it must be approached on the highest plane of competency and unselfishness. *It must be answered upon the ground of public interest only.* Facts must be studied, trends analyzed, policies formulated. A national council should be called. A group composed of public-spirited citizens, utility executives, and manufacturing executives of the highest rank could well afford to devote the necessary time and thought to the situation with the aim of making a report to the President, the public, and the industry that would be unselfish and authoritative. It is the duty of leaders to lead and to lead intelligently. No intelligent and informed leader can view the present acceptance of false conceptions about public utilities and remain inert and unconcerned. The wolf is at the doorstep already. Why wait to be eaten?"

ON the subject of business expansion the *Electrical World* counsels the electric utility industry to "quit inchin' along" and go after the new business with two fists regardless of expense:

> "With rates going down and taxes going up and little business coming from the factories today, everybody realizes the importance of building up domestic consumption and developing the lighting load. And everybody agreed that this should be done. But will it be done? And how much?
>
> "The greatest impediment to progress in the electrical industry lies in the fact that there is an old, hidebound tradition among executives against spending money to get business. A new transmission line? Certainly—appropriate a million dollars if it will bring system economies and amortize itself within a reasonable time. A new substation? Why, of course—another million here. It's good business. And authorize any extension that promises to pay back from new consumers in three years. Why not? Charge it to capital account. But ask for a million dollars to invest in selling lighting and appliances this fall and winter and see what happens. The sales manager who proposed it would be lucky to escape without frostbitten ears."

OF course, the *Electrical World* does not believe in unsound capital expansion. On the contrary it warns us that privately owned utilities have already overdone water-power and transmission construction. They are heartily

sorry they made the investment. Uncle Sam should take heed before he gets himself in the same jam:

> "Engineers of utility systems and of power equipment manufacturers know these facts. But they keep silent. Is this because of an executive policy to protect the *status quo* and their desire to hold their jobs? Is there any public interest to be gained by getting the government in the same jam that private utilities have encountered? Or is it the nature of engineers to be nonaggressive and permit these types of developments to occur because aggressive personalities who *think* they know sponsor the projects? At all events, the engineers are keeping silent today, as they did in the past, and the uneconomical expenditures are being made.
>
> "Water-power projects of the type outlined are not worthy. They should not receive taxpayers' money because they are economically obsolete before they are constructed. To stop these senseless programs engineers who know the facts should speak out. They will not be consulted by those who sponsor the projects, but they would be heard by the taxpaying public if they would cite facts. Why not seize this public service opportunity?"

Mr. Thomas S. Woodlock, a veteran and sympathetic doctor of industrial ills, apparently believes that the utilities themselves can do very little to turn the tide of adversity. It is in the hands of the people. If they change their punitive attitude toward utilities, private ownership may be saved, otherwise he feels that the late President Wilson was right when he referred to "regulation" as merely a half-way house to government ownership and operation. Mr. Woodlock states:

> "Either 'public opinion' on our side of the water must change its view of the 'utility' as a public enemy, or the privately owned utility must pass out of existence. It has long seemed to this writer that the alternative is the more likely to come about, for there is not the least sign of a change in the direction of the former.
>
> "In brief, the shift in perspective above suggested seems greatly to strengthen this impression, particularly in view of the 'antiutility' spirit so prominently represented in the policy and administrative personnel of government, both Federal and state, at the present time. Former President Wilson's dictum as to 'regulation' and 'public ownership' acquires much force in the light of present economic and political trends—or so, at least, it seems from this distant point of view."

—F. X. W.

THE ELECTRICAL REVOLUTION. By Jerome Count. *The Nation.* April 26, 1933.

EFFECT OF PUBLIC POWER PROGRAM ON PRIVATE UTILITY INVESTMENTS. By David E. Lilienthal. *United States News.* October 21, 1933.

IN THE PUBLIC INTEREST. Editorial. *Electrical World.* September 23, 1933.

SHALL WE QUIT INCHIN' ALONG? Editorial. *Electrical World.* July 1, 1933.

SENSELESS WATER POWER DEVELOPMENT. Editorial. *Electrical World.* September 16, 1933.

PUBLIC OWNERSHIP. By Thomas F. Woodlock. September 15, 1933.

Will the NRA Be the Iliad of Judicial Supremacy?

THERE is an amusing anecdote that rumor attributes to the late Chief Justice White that well illustrates some of our modern laymen's opinion of judicial intelligence. It seems that the learned Chief Justice during his earlier days on the lower bench was driving a carriage over a muddy Virginia road. The wheels became so clogged that further progress was hampered. The Justice stopped his vehicle in the middle of a shallow puddle and began splashing water over the spokes in an effort to dislodge the mud.

While thus employed, a negro plough boy came along and, recognizing the Justice, offered his assistance. The jurist acquiesced and the negro boy began slowly turning the wheel itself into the puddle dislodging the mud at the same time with considerable ease. The Justice was grateful. He said:

"That's a clever idea boy. Why didn't I think of that?"

The boy touched his hat and replied modestly:

"Well, Jedge, some folks is jest natchally sma'ht and others h'ain't!"

This colored boy's patronizing attitude toward a venerable member of the judiciary is no more amusing than the attitude of the current flock of earnest young lawyers and journalists who see in the Supreme Court of the United States, nine "old men bent upon consecrating the ideas of 1776 over the necessities of today."

Most of these modern critics of the highest court seem to take two facts for granted:

1. That the court sometime in the past has arrogated (by questionable constitutional reasoning or otherwise) powers superior to those of the White House and of Congress;

2. That the NRA is, according to all precedent which the court has built up in the process of this exercise of supreme power, inherently unconstitutional and that as a consequence the court will either have to sustain the legislation by legal compromises and sophistries which will deceive few concerning the real truth of its "abdication" or be swept from controlling power by the pressure of popular wrath in the event that it dares to defy the New Deal; either way, we are told the Supreme Court's days are numbered as a supreme economic dictator.

Maurice Finkelstein, professor of law at St. Johns College, Brooklyn, N. Y., wrote as follows in *The Nation:*

> "If the New Deal continues to command its present popular support, the Supreme Court will be powerless to block it. Instead of the court putting the New Deal into eclipse, it will rather be the New Deal which will put into permanent eclipse the economic dictatorship of the court. This prognostication is not based upon any hidden resources of constitutional ingenuity utilized by the framers of the legislation to forestall a veto by the august tribunal; on the contrary, many of the provisions of the legislation seem to go clearly against the weight of accumulated judicial precedents and policy—and yet such is the constellation of political forces that the Supreme Court will find itself powerless to arrest the disputed legislation. Of the two sets of enactments, the Agricultural Adjustment Act raises comparatively simple constitutional questions. But the Industrial Recovery Act, precisely because it is the fulcrum of the whole plan, has to regulate business, or in other words take away property in the form of individual opportunities for profit; and this goes clearly into the domain of property rights, the protection of which the Supreme Court has arrogated to itself by decisions of the past forty years."

AGAIN, Mr. Mitchell Dawson, Chicago lawyer, wrote as follows in *Harper's* magazine:

> "That we are, with respect to the final test of all legislation, actually governed by the judiciary has long been evident, and that the Supreme Court stands as the great defender of private property against the attempts of popular legislatures to encroach upon the privileges of that property has been known for generations. The Founding Fathers displayed an acute realization of the fact, and through the long years of John Marshall's leadership the court steadily widened its powers and influence. Yet while we remained essentially an agricultural nation this extension of power was slow. It required the Civil War and the subsequent headlong race for industrial expansion to raise the influence of the court to its great height. With the enactment of the Fourteenth Amendment this great influence may be said to take its rise. What was originally intended to be a definition of the rights of the Negro was adroitly transformed into one of the most powerful weapons of private property through the inclusion of that famous sentence: 'No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any state deprive any person of life, liberty, *or property without due process of law,* nor deny to any person within its jurisdiction the equal protection of the laws.'"

MR. Dawson goes on to tell us that "through the assertion of a power not expressly granted in the Constitution, the court has in large measure come to direct the social and economic destiny of the nation." He tells us that these nine "old men" have become one of the most extraordinary governmental institutions in the world. He added:

> "Far removed from the will and behest of the people, independent of the elected

Congress and the elected Executive, they determine what laws shall stand and what laws shall fall. During the past two generations their field has become increasingly economic. Their word has altered the price of the worker's bread and has struck down legislation to abolish child labor. In innumerable decisions they have stood not only as a great defensive bulwark of private property, but also, since the control of property and wealth tended more and more to concentrate, as an effective aid to the dominant financial and business interests in their efforts to enlarge and consolidate their power. Now a revolution is taking place in this country in which the one vital issue, much obscured by confusion and misunderstanding, is the question whether these financial and business interests shall or shall not be subjected to the collective will; and yet, revolution or no revolution, these same nine men will have the responsibility for smashing the New Deal or establishing it more firmly or indirectly bringing about something which will take its place. Nor can they be oblivious to the fact that their decision will have a most powerful influence upon the authority, prestigé—even possibly the existence itself—of the court over which they preside."

Mr. Dawson reminds us that once before the court attempted to oppose the "inevitable," referring to the Dred Scott decision, but "four years later the guns of Charleston opened fire on Sumter and the Dred Scott decision was swept away like a cobweb." Here, it appears, Mr. Dawson has made not only an historical conclusion of questionable accuracy but at the same time pointed to an excellent answer to the charge that the Supreme Court has ever set itself above the people.

FIRST of all, the guns of Charleston did not sweep away the Dred Scott decision. On the contrary that decision remained very good and effective law until the ratification of the Thirteenth Amendment put into the Constitution the provision which the court in effect said must be placed there before slavery could be constitutionally abolished.

So it is with other constitutional verdicts of the court. It never has and never will condemn a law to death.

At most, the court may merely hold that, under the prevailing state of the Constitution, a particular statute cannot stand until the people enlarge the scope of the original document. As such the court acts as a check on both the legislative and executive branches but never upon the people, in whom all power of government reposes under our theory of constitutional government. How can it be said that the court has usurped any power of either of the other branches. It cannot make laws. It cannot enforce them. It can only exercise a veto power subject always to popular referendum. Is this too much power for our judiciary?

MR. Finkelstein seems to be quite sure that the court could not approve of the NRA program according to former constitutional precedents. He states:

"The court has held, however, in two successive decisions dealing with the attempts of Congress to prohibit child labor in manufacturing (first, through its power over interstate commerce and second, through its power to tax), that the conditions of manufacturing were a domestic matter for the states, in which Congress had no power to interfere. On the other hand, even should the court in its graciousness concede jurisdiction to Congress over all phases of industry and commerce, both local and national, the types of concrete regulations which the act authorizes—hours of labor, wages, prices, and output—have been repeatedly thrown out as unreasonable when imposed by the states and the nation in their respective fields, except in the narrowly delimited field of railroad and public-utility regulation. And even in that field the court has set itself up as the final power which shall determine what particular rates and restrictions are reasonable and what are not.

"In addition, the delicacy of the recovery plan makes it imperative that it should be administered by executive agencies with a full coördination of all its phases. This renders abortive the prediction of those Machiavellian interpreters who suggest that the court might sustain the act but whittle away its effectiveness by interpretation of specific codes. Similarly, the often-made suggestion that the court might sustain the recovery act as an emergency measure overlooks the important consideration that while the depression may be temporary, its cure, once undertaken by the methods of the New Deal, will involve a permanent change in our economic policy. Anyone who thinks that the emergency behind the recovery act will soon pass is gravely mistaken, for if the law is at all successful, not only will

its duration be extended, but its application to the economic life of the country will doubtless tend to be intensified rather than diminished. So that while Congress enacted this statute in the form of emergency legislation—no doubt to make it more palatable to the court—nevertheless, it is perfectly plain that that prop is insecure and can afford no permanent support to the constitutionality of the New Deal. In short, if we are to go by the point of view expressed in many of the past decisions and articulated past policies of the court, the Industrial Recovery Act would have as much chance to pass through the Supreme Court as a camel through the eye of a needle."

And yet the court approved, in Block *v.* Hirsh, 256 U. S. 135, as an "emergency" measure during a shortage of housing, a statute regulating the rentals of real estate. It did not say how long an emergency had to last. It was Congress, not the court, that fixed the 2-year limit in the NRA. Why couldn't the court sustain it as long as the economic emergency lasts without violence for former precedent? Again, why is it not possible that the NRA may, during the emergency period, create industrial code agreements that will be the basis for permanent intra-industrial regulation for the future, not by compulsion of government, but by force of voluntary contract? Who knows but that the NRA may be the nucleus of the development of an era of enlightened industrial self-regulation that will continue on without constitutional question or interference. Such an ideal, depending entirely upon intraindustrial contracts, once firmly established would change entirely our legal policy of enforced industrial competition, but it need not run afoul of the Constitution.

THERE are also many aspects of the New Deal that are not entirely free from the danger of abuse, even when considered from the "liberals'" viewpoint. Mr. Dawson recognizes this. He states:

"What if the liberal Justices, taking the New Deal at its rosiest, should be able to write a majority opinion upholding the powers of the NRA? And what if subsequently the machinery of the NRA should fall completely into the hands of business and finance? Imagination boggles at the thought of what a Harding administration might do with these gigantic powers. The Roosevelt administration is very far from being free from the same pressures. Such a prospect must cause Justice Brandeis many an uneasy thought. But might not the possibility of the open and avowed control of the NRA by vested property be not unpleasing to the conservative Justices? That is possible, and the inherited instincts and the acquired convictions must operate here as well. But they must operate in a fog of uncertainty and doubt."

Both Mr. Finkelstein and Mr. Dawson feel that the court stands at the critical point of its power. The former states:

"And yet the Supreme Court will in all probability find it difficult to throw out the Industrial Recovery Act as unconstitutional."

THIS immediately gives rise to the question as to just what would be gained if the supreme power of the court on matters of constitutional interpretation were overthrown and our Congress became supreme just as Parliament is supreme in England. Would the people fare better? Are the elected Senators and Congressmen better guardians of the rights and privileges of our people? Perhaps! But doubtless there are still many of us who are content to leave a limited veto or checkmating power against Congress in the hands of the Supreme Court. Even if the present court with all its splendid background of learning and tradition were to founder on the rocks of prevailing popular pressure of the NRA, it is difficult to visualize the American people without a supreme tribunal with supreme powers of judicial interpretation. Not a few of us would cry out: "The court is dead. Long live the court!"

—F. X. W.

THE DILEMMA OF THE SUPREME COURT. By Maurice Finkelstein. *The Nation.* October 18, 1933.

THE SUPREME COURT AND THE NEW DEAL. By Mitchell Dawson. *Harpers.* November, 1933.

The March of Events

Federal Communications Commission May Be Created

It has been disclosed that the administration is considering the establishment of a new communications commission, which would regulate radio, telephone, and telegraph companies much as the Interstate Commerce Commission now regulates transportation companies, according to the *United States Law Week* of October 31st.

As tentatively determined, the new commission would have power to fix rates, order consolidations, make decisions designed for communications efficiency, allocate and transfer services, and coördinate systems to reduce undue competition. At present it is felt that there is too much overlapping in the businesses of the radio, telephone, and telegraph companies and that it may be well to establish a *quasi* judicial body to control them.

A committee is now at work on the problem and is expected to report to the President about December 1st. The matter has been before Congress for several sessions, the *United States Law Week* stated.

Cities Vote on Municipal Operation of Utility Services

Proposals for municipal operation of electric utility services were defeated in a majority of the larger cities voting on such issues in the elections of November 7th, according to a report in *The Wall Street Journal.* Salt Lake City, Utah; San Francisco, California; Cincinnati, Youngstown, and Portsmouth, Ohio; and Bordentown, New Jersey, voted against various proposals to oust private plants from supplying those cities.

Among the cities which voted against private operation were Camden, New Jersey; Akron, Ohio; and Sandusky, Ohio. Of some of the smaller communities which voted on municipal projects Tyrone, Pennsylvania, defeated a proposal to establish its own plant, while Fleetwood, Pennsylvania, voted in favor of a proposed loan to erect its own generating plant and acquire the distribution facilities of the Metropolitan Edison Company in the borough.

In Akron the vote was only a declaration of intention, this, says the *Journal,* was in a sense an order to the city council to find ways and means to furnish the facilities necessary. After that the matter must again be submitted to popular referendum at the next general election.

The defeat of municipal ownership in Cincinnati is considered another serious blow to the Tennessee Valley Authority as it probably would have obtained current from that source. The voters of Birmingham, several weeks ago, decided that they did not want power from Muscle Shoals.

Second Codification of Power Industry Planned by NRA

The National Recovery Administration is getting ready to tackle once more the task of codifying the electric light and power industry, with a newly appointed deputy, Leighton H. Peebles, in charge, according to the Washington *Daily News* of October 28th. Protests were made, the *News* states, when this utility group was turned over some months ago to Deputy Philip Kemp, director on the boards of a number of electric utilities. The matter was allowed to remain dormant until reorganization of the administrative staff of NRA brought a new deputy into the division having to do with natural resource industries.

Other departments of the government having to do with utility regulation had a number of suggestions before NRA for inclusion in whatever electric utility code is finally approved, it was said. One of the most important of these calls for uniform accounting requirements, correcting many of the bookkeeping practices which have made the Federal Trade Commission investigation into utility finances exceedingly complicated, the *Daily News* added.

U. S. Favors Municipal Loans to Build Utilities

The right of states and municipalities to develop their public utility facilities and protect their water supply has been upheld by two governmental agencies, the Public Works Administration and the Federal Power Commission, according to the New York *Herald Tribune* of November 1st.

For the Public Works Administration, Secretary of the Interior Harold L. Ickes announced that cities and towns would have preference in loans from the public works fund for the building of lighting plants and

systems. His position was set forth in a letter to Hugh Miller, state engineer for Missouri, and amounted to instruction to Missouri officials to apply for a loan for desirable projects without delaying applications unduly because of demands for hearings on the protests of private interests.

The Federal Power Commission, in an opinion written by George Otis Smith, who is retiring as a Republican member of the commission after forty years in Federal service, upheld a contention of the city of Everett, Washington, and denied a permit to the Great Northern Power Company for an extensive power project on the Skykomish river.

The Power Commission denied the application of the Great Northern Company because it failed to meet the requirements of the Federal Water Power Act "in that it is not adapted to conserve, develop, and utilize in the public interest the water resources of the region."

As Administrator of Public Works, Secretary Ickes made it plain again that his organization was using every means of encouraging cities to avail themselves of public funds to construct needed electric light and water systems to put men to work. Five power projects to the amount of $4,845,700 and 100 waterworks enterprises aggregating $20,164,602 have been approved by the Public Works Administration.

Alabama

Birmingham Suburb Votes City Ownership

THE city of Bessemer, a suburb of Birmingham with a population of 20,721, on October 20th became the eighth Alabama town to vote in favor of municipal ownership of its light plant. Municipal ownership of the water plant also was indorsed. The vote was 484 to 394 in favor of the light plant and 476 to 410 in favor of the water plant.

To date, two Alabama towns, including Birmingham, have voted against municipal ownership.

The Jasper city council has set Monday, November 27th, as the election date on which to determine public sentiment on a proposal for a municipally operated electric light plant. Should the proposal be approved at the polls it is planned to connect with the TVA power line if they are routed by Jasper, or to build a steam plant at an estimated cost of $50,000 to $125,000, according to the Birmingham *News* of October 21st.

Interest on Consumers' Deposits Credited on December Bills

THE Alabama Public Service Commission has announced that interest on consumers' deposits placed with light, gas, and water utilities as a guarantee for payment for service must be credited on the December bills of customers under an amendment to the general rules governing utilities announced recently, according to the *Electrical World* of October 21st. The interest rate prescribed is not less than 6 per cent and is payable when the deposit has been placed with the utility for a period exceeding six months. The deposits are required by the utilities in varying amounts, depending upon the probable monthly consumption by the customer.

District of Columbia

Commission Requests Hearing in Phone Rate Suit

A MOTION asking that a date be named for trial of the Chesapeake & Potomac Telephone Company's suit against the year-old rate reduction order of the public utilities commission, was filed in District Supreme Court on October 30th by William A. Roberts, counsel for the public utilities commission, according to the Washington *Daily News*.

The action was taken following a review of the case by the commission's experts in answer to the company's suit enjoining the commission from enforcing the rate reduction. The commission had ordered, effective October 10, 1932, a 10 per cent reduction in all phone bills except those for private switchboard service.

The rate reduction order came after a series of valuation and depreciation hearings and investigations by the commission which found that the phone company should not realize more than 6 per cent on a rate base of $29,860,000, the Washington *Daily News* stated.

Gas and Electric Costs Surveyed

A SURVEY to determine whether apartment house dwellers in Washington, D. C.,

are paying their fair share of the costs of gas and electric service is being made by B. McK. Bachman, chief accountant of the public utilities commission of the District of Columbia.

Minimum bills of 75 cents a month are rendered to consumers in Washington who do not use enough gas or electricity to cause a higher charge, and it is suggested by Mr. Bachman that this may constitute an unfair burden upon householders who are obliged to pay larger bills.

Georgia

Commission Ends Phone Rate Hearings

HEARINGS on Georgia telephone rates before the Georgia Public Service Commission were completed on October 24th, according to the Atlanta *Constitution*.

There was no indication, the *Constitution* stated, as to when a decision might be rendered by the commission, but it pointed out that the record has reached tremendous volume and will require considerable study.

Two orders already have resulted from the six weeks' investigation. The commission has reduced the price of hand-set telephones from 50 cents extra a month to 15 cents extra a month and ordered a revision of installation charges, reducing the installation of a new phone from $3 to $2 and increasing the charge for transfer of service from $1 to $2.

The *Constitution* stated that further inquiry will be made by the commission into a stock issue of the Southern Bell Telephone Company.

Public Service Commissioners Appeal

THE supreme court of Georgia is hearing the arguments on the appealed certioraries of four of the five members of the suspended Georgia Public Service Commission.

The ousted commissioners followed two courses of action last summer when they were suspended by Governor Eugene Talmadge. They filed *quo warranto* actions against the men named in their places and also sought to have the court review the governor's action by certiorari.

Their cases were decided against in the lower courts. The higher court first heard arguments on the *quo warranto* actions and now is taking up the certiorari appeals.

The court grouped the four appealed public service commission cases and heard part of the arguments presented in behalf of the four members with actions pending, James A. Perry, Albert Woodruff, Walter R. McDonald, and Jule W. Felton.

The Atlanta *Constitution* stated that Robert Blackburn and G. C. Spence, of Atlanta, representing Mr. Perry, contended that since the statute under which the governor removed the commissioners does not define the disqualifications on which the chief executive may act, the commissioners are entitled to a judicial determination of its meaning. Assistant Attorney General John T. Goree, representing the state, contended that the powers of the governor are clearly defined.

The *Constitution* added that it is expected that the Barnett-Mangham case will be taken up immediately after. This is an appeal of Captain J. W. Barnett to oust Chairman J. J. Mangham of the state highway board.

Illinois

Mounting Utility Taxes Cut into Profit

THE Illinois Commerce Commission at the opening of formal hearings looking toward reduction in electric rates charged by Public Service Company of Northern Illinois overruled a request of James Simpson, chairman of the company that the commission postpone hearings until such time as the company and the commission "know more about the future than it is possible to know today," according to the *Wall Street Journal* of October 26th.

Mr. Simpson's statement, which he said applies also to Commonwealth Edison Company and Peoples Gas Light & Coke Company, sets forth his views as to the present plight of the three utility companies headed by him, owing to subnormal consumption of their services on the one hand, and mounting taxes and other costs on the other.

Mr. Simpson stressed that rates are in

the hands of the commission or the courts, that consumption of electricity and gas is still far below normal and only recently has there been any encouraging upward trend, and that taxes have mounted sharply. Normal daily operating expenses, he said, constitute the only controllable item in the picture.

As for taxes, Mr. Simpson stated that within the past ten months the three companies have had new and increased taxes levied or proposed to be levied against them, some going back to 1931 and totaling more than $14,500,000. Of many of these the companies had no knowledge a year ago, he said.

Commission Will Rule on Plea for 5-cent Traction Fare

THE Illinois Commerce Commission took under advisement the motion of counsel representing the Chicago-Cook County Car-Riders' Association for an inquiry into the values of the surface and elevated companies' properties, a revaluation of which, it was asserted, would show justification for 5-cent fares. The lower fare, it was contended, would greatly increase the number of riders and therefore the revenues of the companies. A petition for the inquiry and lower fares had been filed recently by the car-riders' group. After a hearing of two hours, participated in by traction company attorneys and spokesmen for a number of citizens' groups, Chairman Benjamin F. Lindheimer of the commerce commission announced that a ruling would be given within ten days as to whether the commission has the right to order a revaluation inquiry.

The Chicago *Daily Tribune* stated that the Chicago Surface lines and the Chicago Rapid Transit Company are in Federal receivership. Attorneys for the transit companies outlined the financial affairs of the traction systems and held that lower fares would be confiscatory and that such a fare would not produce sufficient revenue to pay the operating expenses of the Chicago surface lines. They warned that the opening of a valuation inquiry at this time might jeopardize, and perhaps nullify, the steps being taken to merge the two systems.

Indiana

Commission Orders Utilities to Justify Penalties

THE Indiana Public Service Commission has served notice to utility companies that they must justify the addition of a penalty upon consumers who fail to pay bills promptly, or stop the practice.

The chairman of the commission, according to the *Gas Age-Record* of October 21st, said no general order would be written to abolish the penalty system until the utilities are given an opportunity to appear again and present facts to justify the system. Meanwhile the commission would not approve any rate orders with penalty charges. The commission has disapproved gross rates in nine rate cases during two weeks. One Indianapolis utility would lose a revenue of $500,000 annually, it was said, if these extra charges were abolished.

Gas Purchase Loan before Advisory Board

THE request of the Indianapolis utilities district for a $9,000,000 loan to take over the Citizens Gas Company property was under investigation by engineers and financial experts of the Indiana advisory board of the Federal Public Works Administration, according to the Indianapolis *News* of October 26th. Formal petition for the loan was presented by representatives of the city of Indianapolis. If the board approves the loan, the project must be sent to the Public Works Administration in Washington for a final hearing.

Maine

Lower Truck Rates Sought by Beverage Distributors

A LEGISLATIVE committee appointed by the newly formed Maine Wholesale Distributors of Alcoholic Beverages Association was authorized to appeal for lower common carrier truck rates, minimum excise tax assessments, and to organize the association's program in regard to the coming special session of the legislature, according to the *Daily*

Kennebec Journal. The *Journal* stated that the committee will seek hearing with the public utilities commission in an appeal for fourth-class rates in transportation of beer by general truckmen instead of the third-class rates now charged. Fourth class rates, the association maintained, are more comparable with railroad rates now charged. A ruling on uniform C.O.D. rates will also be sought.

The association, which was organized in September according to the requirements of the NRA, was largely attended by distributors throughout the state. Over thirty of the state's eighty distributors had joined and paid membership dues at the close of the session.

Investigation of Electric Rates Requested

THE public utilities commission has been requested to make an immediate investigation of electric rates charged by the Bangor Hydro-Electric Company in two petitions signed by Bangor consumers, according to the Portland *News* of October 20th. The petitions complained of unjust and discriminatory rates charged by the electric company. The *News* stated that those sponsoring the investigation are of the opinion that domestic rates are entirely too high as indicated by a comparison with other communities in the West and South. Salaries of certain company executives at a time when employees generally are being reduced also are questioned.

These petitions follow another petition filed during the early part of October by citizens of Hampden asking for an investigation on which the preliminary ten days' notice already has been issued by the public utilities commission. It was stated that it is thought likely that the hearings will be consolidated.

The commission has been engaged for some time, it was reported, in a thorough investigation of the rate structure of the Maine Public Service Company in Aroostook county and a tentative schedule recently filed showing a substantial reduction in rates.

Maryland

Right of Valuation Appeal Argued

THE right of a public utility to appeal from a tentative valuation order of the public service commission and from a final valuation order was placed before the court of appeals at Annapolis as a result of litigation growing out of the Potomac Edison Company valuation, according to the Baltimore *Sun* of October 18th.

The question of the right to appeal from a tentative valuation was involved in the first case argued. This was an appeal of the companies from a decision of the lower court denying the companies' petition for an order dismissing their own bill of complaint and sustaining the commission's demurrer to the bill. The bill sought an order setting aside the commission's tentative valuation of the companies' properties. Subsequent to its filing, the commission fixed the final valuation.

Counsel for the appellant companies contended that the final valuation order superseded the tentative valuation order and that the sufficiency of the bill of complaint attacking the tentative valuation was a "moot question." It was urged that a moot question should not be decided and a bill of complaint giving rise to the question should be dismissed.

The attorneys for the commission contended that the demurrer of the commission was properly sustained by the lower court because "nowhere in the public service commission law is there any language authorizing an appeal to the courts from either a tentative or a final valuation of property by the commission."

Michigan

Cities Represented at Hearing on Telephone Rate Boost

THE cities of Pontiac and Lansing will be represented at the Michigan Bell Telephone Company rate hearing before the Michigan Public Utilities Commission. The Pontiac *Press* states that this is the case which has been pending before the commission for several years and which found its way to the United States Supreme Court.

The move on the part of the telephone company is being fought by the Michigan Municipal League and Pontiac took an active

part in the fight to prevent any further advance in rates. The utilities commission refused previously to pass on the matter until the company produced all its records of holding companies.

The city of Lansing directed the Michigan Municipal League to appoint someone to represent that city at the hearing.

Workers Share Profits

THE Detroit Street Railway has adopted an employee profit-sharing plan to make its 6,000 workers salesmen of its service, according to the Knoxville *News-Sentinel* of October 19th.

The plan puts the company's workers on commission as well as salary. The company raised wages to 1929 levels, eliminating the reductions given employees during the past three years. The reductions averaged 14 per cent.

The Detroit Street Railway is municipally owned and is believed to be the first such public utility in the United States to give its employees a share in its profits, the *News-Sentinel* stated.

Minnesota

Phone Plan Delayed

ACCORDING to the Minneapolis *Journal* of October 25th, a move launched late in the last legislative session for a state-owned telephone system in the state capitol was delayed when the state failed to receive a single bid for a dial system. Several bids were submitted for manual phones, but the law will have to be changed to permit installing such a system.

Governor Floyd B. Olson said he would ask the legislature at the special session this winter to authorize installing a manual system, the *Journal* stated.

Purchasing Agent Carl R. Erickson, when bids were opened late yesterday, was reported to have commented, "There's something rotten somewhere."

The Minneapolis *Journal* stated that representatives of companies which bid on the manual system asserted they were unable to get prices from the two large controlling automatic system companies, and added that the two companies are the American Automatic Electric Sales Company and the North Electric Company.

A letter received by Mr. Erickson from the American Company informed him the cost would be "at least $60,000," and that because the last legislature did not appropriate enough to reach this figure, it was considered best not to submit a bid at this time, the *Journal* stated.

Mr. Erickson asserted the legislature appropriated $47,000 for the system following an extensive check-up by a veteran engineer of the American Company, A. C. Stratton, who estimated the amount would be more than sufficient.

Missouri

Governor Park Issues Proclamation Recommending Municipal Plant Law

AUTHORIZATION for the erection or purchase of municipal plants throughout the state of Missouri is sought in the legislative program formulated by Governor Park for enactment at the special session of the legislature recently called by him, according to the *Electrical World* of October 21st.

The proclamation, calling upon the general assembly to consider and enact such legislation as may seem proper, said in reference to the municipal plants:

"To authorize any city, town, or village now or hereafter having a population of less than 75,000 inhabitants to purchase, construct, establish, erect, maintain, and operate, either within or partly within and partly without the corporate limits of such cities, towns, or villages, an electric or other light and power plant or system or extensions to or improvements of any existing electric or other light and power plant or system for public, domestic, and commercial uses, and to provide for the cost thereof by the issuance of revenue bonds payable solely from revenues to be derived from the operation thereof, providing for an election on the question whether such bonds should be issued and authorizing the fixing and revision of rates to be charged for the services thereof."

New Jersey

Commission Bans Utility's Straw Vote

THE public utilities commission has ordered the New Jersey Central Power and Light Company to discontinue announcing the results of a straw vote now being conducted in Asbury Park in connection with the coming election of five councilmen, according to the New York *Times* of October 27th.

The ruling by the board was on complaints of the Monmouth County Taxpayers' Association that such announcements might be misunderstood and arouse suspicion of ulterior motives. It was further contended, the *Times* stated, that the cost of the straw vote might be charged to operating costs and would have a bearing on the company's rates.

One Hundred Per Cent Dial System

NEWARK'S telephone system will become 100 per cent dial operated at midnight on October 28th when the last remaining manual switchboard, serving 2,500 telephones, will be replaced by dial switching apparatus, according to the Newark *Evening News* of October 28th.

The new office will provide the same type of dial service as the other exchanges in Newark, with direct dialing to any New Jersey telephone within approximately an 18-mile radius.

The company has been engaged in the installation of dial systems for some time.

New York

Emergency Legislation Faces Supreme Court Test

THE validity of NRA price-fixing regulations may be determined soon by the United States Supreme Court. According to press reports, argument is to be heard by the highest tribunal December 4th on an appeal of a Rochester (N. Y.) grocer, Leo Nebbia, who was arrested, tried, and convicted for selling milk in violation of the price regulations of the New York State Milk Control Board.

The state court of appeals upheld the validity of the act on the ground that it was a temporary measure. The decision has been widely quoted in lower court tests of the recovery laws.

Aside from the general aspect of this case as a test of the constitutionality of recent emergency legislation, the case specifically involves the right of a state during an economic emergency to declare what has heretofore been regarded as a private business to be affected with a public interest; in other words, to declare it to be a public utility for the purpose of fixing prices.

Ohio

Gas Rate Dispute Depends on Commission's Pipe Decision

UPON the interpretation of the Ohio Public Utilities Commission placed on engineering theories for determining depreciation of natural gas pipe lines in the Cleveland-East Ohio Gas Company rate dispute, the company has based its depreciation allowances on inspections of 18-inch sections of its pipe lines, and averaging the 10 deepest pits found in these sections, according to the Akron *Beacon Journal* of October 25th.

The *Beacon Journal* adds that the city of Cleveland based its depreciation allowances on the deepest pit found in 20-foot lengths of the pipe lines. It is argued that the deepest impression is 40 per cent greater than the average for the 10 deepest pits.

There is a difference of $10,000,000, it is stated, between the East Ohio and Cleveland as to the valuation of East Ohio properties in Cleveland, from that city to the Ohio river gateway, and in the Hope Natural Gas Company fields of West Virginia.

Constitutionality of Lloyd Bill Challenged

THE constitutionality of the new Lloyd Bill authorizing the public utilities commission to go behind city gate rates in utilities

rate fights, was challenged by the United Fuel concern, a party defendant in its case against the Portsmouth Gas Company, according to the Columbus *Dispatch* of October 19th.

The Lloyd Bill was passed to prevent gas companies from hiding behind gate rate contracts in seeking to justify rates charged consumers, the *Dispatch* stated. The United Company, in the Portsmouth Case, maintained that the gas coming from West Virginia was interstate commerce and hence not subject to the jurisdiction of the Ohio Public Utilities Commission.

Counsel for the city of Oberlin in a brief filed with the public utilities commission charges that the public is placed at the mercy of the wholesalers in the regulation of wholesale contracts between natural gas companies. The counsel urged the commission to assume jurisdiction over a wholesale gas contract between the Ohio Fuel Gas Company and the Ohio Electric Power Company in determining a fair and equitable rate for consumers in Oberlin. To the gas companies' charges that the Lloyd Bill is unconstitutional, the counsel declared that inasmuch as no court has as yet passed upon the bill the commission is bound to follow the dictates of the legislature. Oral argument on the case will be heard by the commission.

Oklahoma

Governor Murray Opposes Red River Hydro Project

THE opinion of officials in Oklahoma is not united on the proposal for construction of a large dam on the Red river near Denison, Texas, which is designed to form a large lake along the Red and Washita rivers, 45 miles in extreme length and 20 miles wide at the widest point, and to cost $36,000,000, according to the *Elecrtical World* of October 14th.

Engineers from Dallas sponsoring the project, along with representatives from southeastern Oklahoma and northern Texas, and several congressmen from both states, think the project would give work to 4,000 men and would be a source of electric power which could be sold to the large electric companies of Oklahoma and Texas, or, if such companies did not want it, direct to municipalities in both states.

Governor Murray has announced his opposition to the project on the grounds that construction would inundate large areas of Oklahoma farm lands which are needed, and produce power of which there already is a surplus.

Commission's Investigation Is Delayed

THE corporation commission of Oklahoma finds delay in its general investigation into electric rates charged throughout the state by electrical utility companies. The engineering staffs of the commission have been reduced because of uncertainty over validity of claims on a special $50,000 annual utility investigation fund from which Governor Murray has forbidden any expenditures this fiscal year, according to the *Electrical World* of October 21st.

A test of the legality of claims by employees supposed to be paid from the fund now is pending before the state supreme court. Much of the audit of books of the Public Service Company of Oklahoma has been completed, most of the work being done prior to the arising of the question of legality of the utility investigation fund. However, the commission at present does not have the employees nor money to finish the audit and have engineering estimates of property conditions made. The same applies to the study of properties of the Oklahoma Gas & Electric Company.

Pennsylvania

New Commission Rule Sought on Water Rates

THE 5-year-old litigation over rates of the Scranton Springbrook Water Service Company has gone before the public service commission for another decision.

Counsel for the company and complainants in the Springbrook or Wilkes-Barre area left the commission with widely varying property valuations on which to base a new order, according to the Philadelphia *Record* of October 31st.

Consumers in the Scranton territory, a party to the original complaint filed against rates effective July 1, 1928, were not represented at the opening of the hearing. Their complaint was withdrawn after a compromise was reached with the company.

South Carolina

Power Plant Proposed for Greenwood

APPLICATION was to have been filed with the state advisory board of the Federal emergency administration of public works at Columbia on October 25th for a loan of approximately $3,000,000 to Greenwood county for erection of a hydroelectric dam on the Saluda river to supply cheaper power to county mills, farm and city homes, relieve unemployment, and assist in defraying county expenses, according to the Columbia *Record* of October 25th. The Columbia *Record* stated that the project would be self-liquidating, would be erected at a total cost of $2,978,000, and would call for a steam auxiliary plant in or near the city of Greenwood.

The purposes of the plant, as outlined in the application are: 1. Power would be supplied in abundance to present consumers at approximately 50 per cent less than present cost; 2. Rural power lines would be built and operated at cost to supply power to rural and farm homes; 3. Charity contributions would be immediately relieved and many men employed; 4. The project is an urgent public necessity to defray expense of the county government, it being planned to remove all property taxes with the profits from the project.

The Columbia *Record* states that the application adds that only "about 85 per cent" of taxes can now be collected on account of the financial status of farming and about 15 per cent of properties, it is said, are defaulting on taxes.

Tennessee

Optional Power Rate

A NEW optional electric rate for all commercial customers of the Tennessee Electric Power Company was announced in Nashville by the utilities commission on October 27th. The rates will be effective on bills rendered November 10th, according to the Knoxville *News-Sentinel*.

The rate, estimated by the commission to save customers $165,000 over a 3-year period, will be available to stores, office buildings, apartment houses, shops, and other commercial users.

The utilities commission engineer said the rate is designed to permit customers to increase consumption without materially increasing their monthly bills.

Texas

Gas Occupation Tax Pending in Legislature

AN occupation tax on natural gas production of 2 cents per thousand cubic feet is provided for in a bill pending in the legislature. The levying of the tax would not begin until the quarterly production reaches two hundred million cubic feet. The tax shall be paid quarterly on natural gas produced, transported, sold or delivered, or imported into the state for use as light or fuel, according to the *Gas Age-Record* of October 14th.

Railroad Commission Control Urged by Proposed Law

A BILL which would place public utilities under the jurisdiction of the railroad commission has been introduced in the state legislature by Representative Howard Hartzog. The bill would delegate power to the commission to regulate all utilities in the state and their rates, according to the *Gas Age-Record* of October 14th.

Mr. Hartzog introduced the bill with the contention that it was covered in the proposal that the legislature enact laws to provide close coöperation in the national recovery program and should, therefore, be considered during this special session. Regulation of public utilities and the enforcement of fair rates, Mr. Hartzog said, could be construed as a part of the recovery program.

Provision was made in the bill for the employment of expert engineers, examiners, and accountants and also for a tax of one eighth of one per cent of the gross receipts of public utilities for support of the commission in rate investigation.

With the railroad commission as an appellate body, municipalities would be given original jurisdiction in rate matters.

Utah

Time Extension Refused by Commission to Answer Charges

THE Utah Public Utilities Commission has refused the request of the Mountain States Telephone & Telegraph Company to extend the time until December 1st for filing an answer to the charges made against its rates and operating practices as set forth in a complant filed by the commission on September 23rd, according to the *Telephony* of October 21st. The company was directed to file an answer within ten days.

The complaint, among other things, attacked: The rates of the company as being too high; commercial and traffic expenses; extension charges; the going value of the Utah properties of the company; fixed charges; and alleged that the company's earnings are excessive.

The Mountain States Company presented to the commission a large amount of information, which had been requested by the commission, in connection with the case instituted earlier against the telephone company, under which the rate schedule in effect at Logan, is attacked as compared with that at Provo, according to a statement in the *Telephony*.

Telephony adds that the information presented to the commission is said to represent only a part of that requested. The company declared that it would be impossible, with all available forces working as hard as possible, to get the task completed for a week or ten days.

Washington

Supreme Court Grants Utilities Review

DISPOSING of the petition of the Puget Sound Power & Light Company, the Seattle Gas Company and the Pacific Telephone & Telegraph Company, the United States Supreme Court last week ruled that probable jurisdiction was shown by these companies in their appeals from a lower court decision upholding an ordinance of the city of Seattle establishing a license for an occupational tax on business, according to the *Electrical World* of October 21st. The validity of the tax, amounting to 3 per cent on the gross revenues, is attacked on the grounds that it is a license to do business. The power company contends it is licensed to operate in the state and has a franchise granted by the city of Seattle which does not expire until 1952.

Wisconsin

Increased Costs under NRA Is New Argument in Injunction Suit

INCREASED costs caused by introduction of the NRA was a new argument submitted in Federal court at Madison, Wisconsin, by the Wisconsin Telephone Company in explaining why the Wisconsin Public Service Commission's order for a 12½ per cent reduction in the concern's rates should be enjoined.

The appeal of the company for an interlocutory injunction restraining enforcement of the reduction order opened before three United States district judges, as required by statute.

Counsel for the company pointed out that the additional expense to the company resulting from an increased number of employees and reductions in their hours of work had not been considered by the commission in ordering the rate reduction, which was designed to be effective until next August, supplementing a similar order for an identical reduction in the previous year.

The order is confiscatory, fundamentally fallacious, was made without sufficient public hearings, and phases of it were partly drawn before hearings were called, counsel charged. If it becomes effective, it will permit the company a maximum of 3.2 per cent net earning on the concern's investment, rather than a 7½ per cent earning which the Wisconsin Supreme Court declared was equitable, the counsel said.

The company complaint in the present case charged that on March 10, 1933, no commissioner was present at the hearing; that testimony was taken by an examiner who neither before nor since attended the hearings, and that "no one commissioner has heard all the evidence in this case."

The judges adjourned the injunctional suit for further argument to November 6th.

The Latest Utility Rulings

Bankruptcy of Husband Does Not Justify Denial of Telephone Service to Wife

JOHN Hochheim was a subscriber of the Cortland Telephone Company operating in Nebraska. He went into bankruptcy owing the telephone company $22.40 for telephone service. Then his wife offered to pay the regular telephone rate in order to be a subscriber of the company. The company refused to furnish service to her unless the amount due from her husband was paid. The Nebraska commission was asked to settle the controversy.

The commission stated that it was unable to find that a telephone is a necessity furnished the family within the meaning of statutes providing for respective liabilities of husbands and wives, but it stated further that even if a telephone were a necessity there was no evidence that the company had ever obtained a judgment against the husband or that execution had been issued upon such a judgment and returned unsatisfied in accordance with the Nebraska statutes in order to hold the wife liable. It was held that the wife was not liable for the claim against her husband and that the company could not refuse to give her telephone service upon payment of the regular monthly charge in advance. The commission did hold, however, that the wife was not entitled to any of the benefit arising from the installation of the telephone in the name of her husband and that she should pay the regular installation charge. *Hochheim v. Cortland Teleph. Co. Formal Complaint No. 739.*

Meter Tampering Justifies Service Denial and Charges against Customer

COMPLAINT was made to the Pennsylvania commission that an electric utility had discontinued service at the pole and later had removed the wires when it was discovered that service had been reconnected. The utility admitted such action and also admitted that it refused further service until its former customer had paid the sum of $43.68 to cover unregistered current, Federal tax, and expenses of inspection, on the ground that the customer had tampered with the safety switch-box on his premises.

The commission dismissed the complaint upon the presentation of evidence that, although the complainant's meter registered correctly, the switch-box seal had been broken and the binding posts scratched, indicating that the equipment had been tampered with and the wires tapped in such a manner as to permit current to be used without being registered by the meter. The customer's consumption of electric energy had fallen off considerably since October 23, 1931, when electric service was temporarily discontinued for failure to pay promptly. It was stated:

> "A public service company is bound under reasonable circumstances to serve all applicants for its particular service within the area supplied by it. If, however, payment for such service cannot be reasonably assured, the commission will not require service to be continued. For the company to continue to supply a consumer without protecting itself from the consumption of energy which, due to the fault of persons beyond the company's control, has not been registered upon the meter, would

be to discriminate against other customers whose meters are operated without interference. A similar discrimination exists where special inspection involving extra expense to the company is necessitated on a particular consumer's premises in order to prevent improper tampering with the switch-box. It is respondent's right and duty to act reasonably and in accordance with its tariff rules to prevent such discrimination."

Dumm v. Duquesne Light Co. Complaint Docket No. 9720.

Telephone Installation Charges Are Reduced

THE Georgia Public Service Commission has ordered a reduction in installation charges and increased the charges for transferring from one type of service to another. The former installation charge was $3, while the new charge is $2. The charge for transferring from one type of service to another has been increased from $1 to $2.

The commission held that the $3 charge was retarding an increase in the number of subscribers and that the cost of transferring from a wall set to a desk set, or vice versa, was just as much trouble to the companies as a new installation. It was believed that with the lower installation charge former customers of the various telephone companies operating in the state would return sooner.

Combination Domestic Service Rate Is Established to Eliminate Discrimination

A NEW rate schedule has been established by the Wisconsin commission for customers of the River Falls Municipal Electric Utility. This will be available for domestic users of current for heating, cooking, and small power.

The commission found that the utility had been permitting residential customers with a separate circuit for heating and cooking service or for small power service to take their electricity for small appliances through the heating and cooking meter or to take their electricity for lighting through the heating and cooking meter or the small power meter.

This situation arose because of arrangements of the interior wiring on the premises of customers. As a result some customers were paying for electricity for lighting purposes at the regular lighting rate of 9 cents for the first ten kilowatt hours with lower blocks for larger use, whereas other residential users who had a heating and cooking circuit were paying for part of their lighting use of electricity at 4 cents per kilowatt hour. Similarly some users were paying for electricity used in small appliances having fractional horsepower motors at the lighting or at the commercial power rate of 5 cents for the first one hundred kilowatt hours, whereas other residential users were paying for electricity for the same purpose at the heating and cooking rate of 4 cents per kilowatt hour for the first three hundred kilowatt hours. The commission stated:

"To cure the obvious discrimination in this situation is the purpose of these two proceedings. The combination rate for domestic service which was filed on August 7, 1933, was made applicable to residential lighting, heating, and cooking service. In view of the situation respecting the application of rates to residential small power service it appears reasonable to make the combination rate available also to motors of one horsepower or less used for domestic purposes. As indicated above, because of the misapplication of the old rates the new combination rate may result in some increased bills to those customers who formerly paid for some lighting service at heating and cooking rates. Of the total customers affected by the new combination rate, twenty-six would have their bills increased and twenty-six would have their bills decreased, the net result being a reduction of $88.73. The increased bills are

small when figured on a monthly basis and will entirely disappear when a better lighting and appliance use has been developed.

"Since the interior wiring arrangements, which facilitated the discriminatory application of the old rates, have been permitted by the utility in the past, it appears reasonable to require the utility to bear the expense of such rewiring of customers' premises as will be required for the elimination of one of the two meters. We believe this expense will be nominal in most instances and will be offset by the advantage derived from single meter installations."

Re River Falls Municipal Electric Utility, 2–U–597, 2–U–618.

Telegraph Company Must Bear Expense of Crossing Change

PUBLIC utilities are obliged to remove or relocate their equipment at their own expense whenever public health or safety requires that this be done, and only where legislation expressly imposes the expense of such a change or removal on the taxpayers will the utility be relieved from bearing it. Upon this principle the Maine commission ordered the Western Union Telegraph Company to bear the expense of relocation and construction of telegraph poles, wires, and conduits in connection with, or incident to, the elimination of a grade crossing in the town of Falmouth where an overhead crossing was substituted on the line of the Maine Central Railroad.

The commission about a year ago authorized the elimination of the grade crossing and the construction of an overpass highway bridge, but in that proceeding nothing was said about the expense incident to the removal or relocation of the poles and wires. Later the case was reopened in order to determine the respective liability of the railroad, the state, and the telegraph company for the expense of relocating telegraph facilities. *Re State Highway Commission, R. R. No. 1816.*

Capitalization of Indirect Charges

THE Maine commission after a careful study of the subject of indirect charges to construction has laid down rules for the treatment of such charges by the Central Maine Power Company. Disposition of the matter was made on an application filed by the company for authority to issue stock which would in effect capitalize certain specified items, including indirect charges to construction, interest during construction, interest on land transferred from a security corporation, expense of acquiring land purchased from this corporation, and home service kitchen expense.

The commission ruled that percentage and ratio methods proposed by the utility were uncertain in the attainment of any equitable distribution of the administration expenses in the case of an established operating company, and that only such actual overhead expenditures as have definite relation to tangible property may be apportioned to construction. The commission held that any allocation of undistributed general administration expenditures to construction should be based on the element of time consumed in connection with construction matters, and that the total of all such allocations to the cost of consruction should not exceed 30 per cent of the total annual reported administration expenditures.

Simple interest at the rate of 6 per cent per annum was held to be reasonable as the cost of money to the utility during the construction period. Moreover, interest at the rate of 6 per cent per annum on the entire purchase price for two years was held to be a reasonable allowance for the preliminary period.

The company had asked to be allowed to capitalize the sum of $690 representing expenditures for a home service

kitchen. This had been disallowed in former proceedings. The items were subsequently adjusted in the books of the petitioning company whereby $622.50 had been transferred to operating expenses, leaving a balance of $67.50, which, in the opinion of the commission, was a proper item for capitalization. *Re Central Maine Power Co. U. No. 1237.*

Inequalities in Fare Zones Are Not Discriminatory

THE town of East Haven, Connecticut, sometime ago complained to the commission that street railway fares which it was required to pay for the transportation of pupils from East Haven to the high school at New Haven were discriminatory because two zone fares had to be paid on a line 6.1 miles long, while on other lines of the company single zones were in one case 5.48 miles long and in another 5.5 miles. The commission ruled that the fares were not discriminatory chiefly because the territory served by the other lines compared was more densely populated and the traffic served was more permanent in character.

No evidence was offered as to the separate costs of operating the line in question or any of the different lines radiating out of New Haven owing to the fact that the company did not maintain such segregation of its accounting records. It appeared, however, that the line was operated without profit, if not at less than the cost of operation. The commission said in regard to street railway fare zones:

> "It is generally true in street railway transportation that the first fare zone comprises the more densely populated territory served by the route and thereby affords transportation at a single rate of fare to the larger number of patrons served by the route. As a particular route penetrates into the suburbs the fare limits tend to be shorter, due to the thinly settled territory served, and in many cases the revenue necessary to support transportation within the second and subsequent fare zones comes in large part from mass transportation within the first fare zone.
>
> "The Momauguin line is such a case, and, while the second fare zone is relatively short, this is due to establishing the first fare zone at the southerly end of the developed portion of East Haven proper in accordance with the principle stated above, and if the entire route were divided into two equal zones, contrary to the principle stated above and with consequent injury to patrons within the present first fare zone, the length of transportation afforded would be about 3 miles in each zone and only slightly less than the general average of 3.32 miles for one fare obtaining on the New Haven division.
>
> "Any transportation rate based upon the zone system, as practically all street railway rates are, is bound to present cases of inequality as to distance transported per single fare both within and beyond the fare or zone limit. In establishing fare zones density of population, community of interest, and riding habits in and along the territory served as well as the cost of the service rendered are to be taken into consideration. This may result, and many times does result, in one zone being materially longer than another or others. Changing conditions may necessitate the changing of fare limits, but such change cannot be based upon a single condition that some other zone within the division may have a longer distance. Any effort to equalize all fare-zone distances would create a public hardship."

Re East Haven, Docket No. 5954.

Utility Contributions to Induce Factory Locations Are Amortized

THE Missouri commission in valuing the property and fixing rates for the Missouri Edison Company had occasion to deal with the question of contributions made by the company to induce factories to locate in the communities where the utility operated. The commission concluded that the contributions should be excluded from the operating accounts, but that the company

should be permitted to amortize them over a 5-year period. It was stated:

"The contributions in question were made by the company to funds established in two communities, to be paid as bonuses to secure factories. The company was not the only contributor, but subscriptions were taken from the communities at large.

"The evidence shows that the establishment of these factories is direct benefit to the utility and its customers, through improvement of the load factor and reduction of the unit cost of service. Under ov plan of regulation, as costs decrease, rates are reduced.

"It does not appear proper to penalize the owners of a utility for reducing the cost of service and rates charged to the public. Neither is it proper to allow contributions of this character to be charged to operating expenses in such amounts as will defeat the objective sought, *i. e.*, the reduction of the cost of service.

"If these contributions are amortized and charged to operating expenses over a 5-year period, the amounts to be included in one year will be negligible, and can have no effect upon the cost of service to the customers."

Among other rulings by the commis- in this case was the approval of per cent as a fair rate of return, dis- approval of an allowance for going value on a percentage basis, elimination of artificial gas manufacturing facilities which had been discontinued with the advent of the distribution of natural gas, and a conclusion as to the value of the property after considering reproduction cost, present prices, investment cost, and other valuation elements. *Public Service Commission v. Missouri Edison Co. Case No. 7264.*

Commission Fixes Restrictions on Cab Passengers

THE public utilities commission of the District of Columbia has reached a decision on the number of passengers that can be legally accommodated in a single taxicab. Previous to the adoption of the taxicab code in September, the theory of the industry was that the cabs could take as many as could be squeezed in. A provision of the code, however, provided they may carry only as many as can sit on the rear seat.

Several members of the Independent Taxi Owners' Association protested. They said the cabs now in use have seats in front beside the driver and that it would be a hardship if they could not be used. The commissioners suspended the rule and after consideration changed it. From now on taxicabs may carry as many as can sit on the back seat and one on the front seat, but no more. *Re Regulations of Passenger Vehicles, Order No. 1197.*

Weekly Pass Plan Is Approved for Washington Traction Companies

THE public utilities commission of the District of Columbia on October 30th approved a plan set forth by the Capital Transit Company whereby weekly passes good for an unlimited number of rides may be used on all street car and bus lines of the Transit Company.

Two classes of passes will be used. One will be sold for $1. This can be used on all lines of the Capital Transit Company where token fare is good.

A charge of $1.25 will be made on the other pass. This will have all the privileges of the cheaper pass and, in addition, will be good for unlimited rides on all car or bus lines on which the fare is now 10 cents or less.

A pass may be used by any member of a family or a number of persons, although good for only one passenger at a time.

NOTE.—The cases above referred to, where decided by courts or regulatory commissions, will be published in full or abstracted in *Public Utilities Reports.*